



MANUAL

FOR

COAL MINES REGULATION ACT, 1887.

MANUAL

OF THE

COAL MINES REGULATION ACT, 1887.

CONTAINING

SOME NOTES, REFERENCES, FORMS

AND

COMPLETE INDEX

BY

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Dedicated

to

ARCHIBALD HOOD, Esq

COALMASTER AND MINE OUNER IN SOUTH WALES AND SCOTLAND

IN WHOM NO ONE LOOKS

FOR A QUALITY EITHER IN THE PASSING OF A

COAL MINES REGULATION ACT 1887

P R E F A C E.

THIS work was intended at first solely for the use of the Members of the Mid- and East-Lothian Coalmasters' Association. Since I decided to give it a wider circulation, I have had the proof sheets revised by Mr. W. R. Sheldon, B.A., Barrister-at-Law, London, and by Mr. John Craigie, M.A., LL.B., Advocate, Edinburgh, in order to make it useful in England and Ireland, as well as in Scotland.

My thanks are due to the Right Hon. Henry Matchew, Q.C., M.P., Hon. Secretary, for having kindly placed at my disposal official forms and other information.

J. C. C.

DUNDEE, 21st December 1887.

CONTENTS.

I. TABLE OF ABBREVIATIONS,	PAGE XV
II. LIST OF CASES CITED,	XVI
III. INTRODUCTION AND SUMMARY OF ALTERATIONS ON PRIOR REGULATIONS,	1
IV. ARRANGEMENT OF SECTIONS OF THE ACT, WITH NOTES AND REFERENCES,—	13

PRELIMINARY.

Section		
1. Short title,		14
2. Commencement of Act,		14
3. Application of Act,		14

PART I.

Employment of Boys, Girls, and Women.

4. Employment below ground of boys under twelve and of girls and women prohibited,	15
5. Hours of employment of boys over twelve below ground,	16
6. Regulations as to employment of boys between twelve and sixteen below ground,	16
7. Employment of boys, girls, and women above ground,	17
8. Register to be kept of boys, girls, and women employed,	19
9. Penalty for employment of persons in contravention of Act,	20
10. Payment of school fees out of wages,	21

Wages.

11. Prohibition of payment of wages at public houses, &c.,	22
12. Payment of persons employed in mines by weight,	23
13. Appointment and removal of check-weigher on part of men,	23
14. Remuneration of check-weigher,	24

CONFIDENTIAL

I 1 tion

ction

- 1 App ntment of the firm,
- 2 Dismissal with notice and
- 3 Notice of the firm
- 4 Revolving fund,
- 5 Annual report of the firm,
- 6 Special report of the firm,
- 7 Trial of the firm in the
- State,
- 8 Publication of the firm,

12

- 47 Pls 1 1 15 10 1
- 4 Pls 1 1 10 1 1 1 1 1
see below 10 min 42

Р 77

1

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- [illegible]

Section	PAGE
Structure and Validity of (Observance of direct tion. Periodical inspection of Periodical inspection periodical inspection, 85	111
0 Periodical inspection with rules	111
1 Special rule for system, .	113
52 Periodical inspection of periodical	114
53 System of inspection of periodical	116
54 Amendment of special rule, .	117
55 Periodical inspection of special rules, .	117
56 Collection of periodical inspection	118
<i>Structure of the Inspection of Special Rules</i>	
57 Periodical inspection of special rules, .	118
58 Periodical inspection of special rules, .	119

PART III

STRUCTURE

I. Periodical

1 Periodical	120
2 Periodical inspection of periodical, .	120
(1) Periodical inspection of periodical, .	121
(2) Periodical inspection of periodical, .	122
(3) Periodical inspection of periodical, .	123
(4) Periodical inspection of periodical, .	124
(5) Periodical inspection of periodical, .	124
(6) Periodical inspection of periodical, .	125
(7) Periodical inspection of periodical, .	126
(8) Periodical inspection of periodical, .	127
(9) Periodical inspection of periodical, .	127
(10) Periodical inspection of periodical, .	128

II

11 Periodical inspection of periodical, .	129
12 Periodical inspection of periodical, .	129
13 Periodical inspection of periodical, .	129
14 Periodical inspection of periodical, .	129

TABLES

Section		
74	Application of 38 & 39 to	10
75	Interpretation of	11
76	Application of Act to	1
77	Application of Act to	11

TABLE I

78	Extension of	11
79	Extension of	13
80	Grant of	13
81	Extension, special	13
82	Temporary	13
83	Construction of	13
84	Repeal of Act,	13
	Section	13
APPENDIX		13

TABLE II

1	Form of	11
2	Notice of	11
	(a) Notice of	11
	(b) Notice of	11
	(c) Notice of	11
	(d) Notice of	11
	(e) Notice of	11
	(f) Notice of	11
3	List of	11

TABLE III

4	List of	11
5	List of	11
6	List of	11
7	List of	11

	PAGE
8. Application for exemption from provision as to double shafts, and dimensions of shafts, . . .	164
9. Application for division of mine into parts, . . .	165
10. Notice declining to acquiesce in objections by inspector to division of mine into parts, . . .	165
11. Notice of nomination of manager, . . .	166
12. Notice of explosion or accident, . . .	167
13. Notice of opening new shaft or seam, . . .	168
14. Notice of abandonment or discontinuance of shaft or seam, . . .	168
15. Notice of recommencement of abandoned shaft or seam, . . .	169
16. Notice of change in name of mine or in name of owner, agent, or manager, &c., . . .	170
17. Notice declining to remedy matter of complaint by an inspector, . . .	170
18. Notice of appointment of arbitrator, . . .	171
19. Forms of reports required by the general rules :—	
(a.) Measurement of air in splits or currents, . . .	172
(b.) Inspection of mine before commencing work, . . .	173
(c.) Inspection of mine during shifts, . . .	173
(d.) Daily inspection of machinery above and below ground, . . .	174
(e.) Weekly inspection of shafts, . . .	175
(f.) Inspection of mine. Sudden danger, . . .	175
(g.) Inspection on behalf of workmen, . . .	176
20. Application for exemption from provisions requiring explosives to be taken into mine in cartridges, . . .	176
21. Notice to workmen to be posted up with proposed special rules, . . .	177
22. Certificate of publication of proposed special rules and notice to workmen, . . .	178
23. Notice sending draft of special rules to inspector, . . .	178
24. Notice objecting to modifications proposed by Secretary of State on new special rules, . . .	179
INDEX,	181

TABLE OF ABBREVIATIONS.

C.B., N.S.,	Common Bench Reports, New Series.
C.P.D.,	Common Pleas Division.
Coup.,	Couper's (Scottish) Justiciary Reports.
El. and Bl.,	Ellis's and Blackburn's Reports.
El. and El.,	Ellis's and Ellis's Queen's Bench Reports.
Ex.,	Exchequer Reports.
Ex. D.,	Exchequer Division.
Jur.,	Jurist.
Jur., N.S.,	Jurist, New Series.
J.P.,	Justice of the Peace.
L.J.,	Law Journal.
L.J., Ex.,	Law Journal, Exchequer.
L.J., M.C.,	Law Journal, Magistrates' Cases.
L.J., Q.B.,	Law Journal, Queen's Bench.
L.R., Q.B.,	Law Reports, Queen's Bench.
L.T.,	Law Times, New Series.
Q.B.D.,	Queen's Bench Division.
M.,	Macpherson's Court of Session Reports.
R.,	Rettie's Court of Session Reports.
Scot. Jur.,	Scottish Jurist.
Scot. L. Rep.,	Scottish Law Reporter.
Scot. L. Rev.,	Scottish Law Review.
W.R.,	Weekly Reporter.

LIST OF CASES CITED.

	PAGE
Adams v. Lusk	67
Baker v. Carter	112
Brown v. Henry	86
Brown v. North	52
Edgar v. Low	115
Evans v. L. M. T.	67
Fine v. S. S. S.	106
Giles v. Jones	37
Griffin v. L. S. S.	27
Hall v. S. S. S.	56
H. S. S. S.	119
Higham v. Wright	171
H. S. S. S.	105
H. S. S. S.	90
H. S. S. S.	32
H. S. S. S.	46
H. S. S. S.	112
H. S. S. S.	113
H. S. S. S.	25, 27, 37
H. S. S. S.	86, 115
H. S. S. S.	107, 115
H. S. S. S.	17
H. S. S. S.	53
H. S. S. S.	114
H. S. S. S.	112, 114
H. S. S. S.	21
H. S. S. S.	75, 31
H. S. S. S.	39
H. S. S. S.	63
H. S. S. S.	15
H. S. S. S.	90
H. S. S. S.	7, 29
H. S. S. S.	-
H. S. S. S.	55
H. S. S. S.	32
H. S. S. S.	101, 102
H. S. S. S.	86

INTRODUCTION

THE mining of coal stratified nonstone shale and frechly represents one of the most important industries in the United Kingdom and in order to provide against the dangers incident thereto the legislature has from time to time imposed regulations for the working of such minerals. These regulations were consolidated and amended by the Coal Mines Regulation Act 1872 and since that date many scientific discoveries have been made which are calculated to reduce to a minimum the occurrence of accidents in mines. A new codification and amendment of the law having consequently been rendered necessary this has received effect by the passing of the Coal Mines Regulation Act, 1887, which applies to all mines of coal stratified nonstone, shale and frechly in the United Kingdom, and repeals the whole previous enactments for the regulation of such mines. The most important of the alterations on the previous law relate to the subjects recently investigated by the Royal Commission appointed to inquire into accidents in mines. While the alterations on the former law have been pointed out in the notes on the various sections of the Act, to which reference should in all cases be made, the following brief summary of the outstanding changes may be found useful to such as are conversant

h the following regulations. The divisions followed in the Act

EMPLOYMENT OF BOYS, GIRLS AND WOMEN

The age limit at which boys may be employed is 13 and boys and girls *above* ground, after the coming into force of the Act (1st January, 1888) has been raised to 14. Boys, girls and women are prohibited from being employed in mining, railway works, &c. The education of boys and girls under thirteen is compulsory. The age employed in connection with mines is now 14. The limit with under the Education Acts, and as a result the school authority under these Acts has power to call for a certificate from the register of boys and girls kept at the local education authority and copy the same. Suitable provision in terms of the Public Health Act, is made for the employment of boys and women employed, § 74.

WAGES

The minimum weight gotten of the mineral contract is the standard for payment of wages, and is calculated on the amount of mineral gotten, and is to be weighed as near to the pit-mouth as possible. The methods of ascertaining the minimum weight from the gross weight of mineral is clearly defined. The Secretary of State is empowered to exempt (from the provisions of the Act) persons employed in a mine to be exempted from the weight of mineral gotten by them) and of persons employing not more than thirty persons, and then only on the joint representation of the owner of the mine, or class of mines, and persons employed therein. § 12.

SINGLE SHAFTS.

The provisions prohibiting single shafts are made more stringent. Shafts commenced to be sunk after the commencement of the Act (1st January, 1888), are to be made not less than 15 yards apart at any point. Communications made between two shafts or outlets, after that date, are to be made not less than 4 feet high; but the Secretary of State has power to dispense with this provision in certain cases. The grounds of exemption from the prohibition against single shafts are to some extent altered, and there are other variations, §§ 16, 17, 18.

DIVISION OF MINES INTO PARTS.

The manager, as well as the owner or agent, is now authorised to give the necessary notices where two or more parts of a mine are worked separately, and it is desired that each part should be deemed a separate mine, § 19.

CERTIFICATED MANAGERS.

There are now two classes of certificates—viz., a first-class and second-class certificate, § 23. The manager must have a first-class certificate, § 20, or its equivalent—a certificate of competency or of service existing prior to this Act, § 79. Daily personal supervision must be exercised by the manager or under-manager, but the manager's personal responsibility is not affected by the appointment of an under-manager, § 21. The under-manager must have a first or second-class certificate, § 23, or a certificate of service granted in terms of § 80. Under that section a certificate of service will be granted by the Secretary of State to any person who satisfies him either (1) that, before the passing of this Act (16th September,

1887), he was exercising and has since that date exercised functions substantially corresponding to those of an under-manager in a mine; or (2) that he has, at any time within five years before 16th September, 1887, for a period of not less than twelve months, exercised such functions. In the absence of the manager, the under-manager has the same responsibilities, and is liable to the same extent as the manager, § 21. A contractor for mineral, or person employed by him, is disqualified from being manager or under-manager, § 22.

No person is entitled to a certificate of competency under the Act unless he has had five years' practical experience in a mine. The three miners' representatives on the board of examiners for granting certificates of competency, may now be chosen from persons formerly employed in or about a mine, and need not be actual working miners, § 23. The renewal or restoration of certificates is in future to be recorded, § 29.

RETURNS, PLANS, NOTICES, AND ABANDONMENT.

One annual return is alone required, instead of two under the previous Statute. It is to be sent in not later than 21st January instead of 1st February, as formerly. The number of days in each month on which coal or ironstone has been drawn is now required to be given in the return. Only the publication of individual output of mineral is now prohibited, and the Mines Drainage Commissioners are to have access to the returns for rating purposes, § 33.

The plan of the mine must show the workings up to a date not more than three months previously. It must be on a scale of not less than that of the Ordinance Survey of twenty-five inches to the mile, if it is not on the same scale

As the plan of the mine being in use at the time. Any proprietor of a mine is at liberty to copy the plan or section for official purposes § 34. The term 'plan' includes a model copy or tracing of any original plan, § 75.

In reference to the notice or notices to be required to be given to the inspector it is now necessary that the plan when an explosion or accident has occurred resulting in the loss of life or serious personal injury, is to be left as it is until at least after the explosion or accident until the expiration of three days after the sending of the required notice to the inspector, or until the visit of an inspector whichever first happens unless compliance with this requirement would tend to increase or continue a danger or would impede the working of the mine, § 35.

The same notice which is required to be given in the case of abandonment, abandonment, discontinuance, or other occurrence of a shaft is also required in the case of a mine, § 36. Agreements are made to preclude compliance with the requirements of the Act in reference to fencing an abandoned mine and the occupation of land, or other persons obstructing the fencing of a mine, are to be deemed guilty of an offence against the Act. A joint or side entrance which is not fenced as required is to be within fifty yards of a highway or road, or a mine or unenclosed land, is to be deemed a mine under the Public Health Act, § 37.

The plan of a standard mine must be either original or at least a copy of the Ordinance Survey of the mine and to the mine or the same seal as the plan used at the mine at the time of its abandonment. Several additional particulars are required to be shown on such plan, and a return is to be made to the district inspector within three months of the abandonment, setting forth the particulars required by the annual return so far

is applicable. The time for laying a complaint
offence against the copiers may be extended by the
provision for such offences made in 1833.

THE ACT

The Secretary of State is empowered to appoint
inspectors under the Act. In the appointment of
inspectors in Wales and Monmouthshire preference is to be
such as to have knowledge of the Welsh language.
The disqualification of inspectors has been extended
to include owners of mines, agents and nominees of
partners or having an interest in any mine or colliery
in his charge, § 40. The committee is to be
matters connected with or relating to the control and
management of houses and other animals in the numerous
national duties imposed on inspectors under the Act, § 41.
An inspector has now power to interfere where he finds
anything connected with the control, management or
of the mine by the manager, dangerous or defective
case where the owner or his representative object to
a matter of complaint by an inspector, he may state
his objection in writing to the Secretary of State with
ten days after the receipt of the inspector's report
of within twenty days is formal and the subsequent
procedure is correspondingly altered, § 42. Only inspectors
in certain districts are required to make annual returns
every inspector, as formerly, § 43. The Secretary of State
may direct a formal investigation of any complaint
accident and of its causes and circumstances. The
procedure with respect to such investigation is described in § 44.

ARBITRATION

The arbitrators are to be appointed within fourteen days

INTRODUCTION

for the whole of the day instead of twenty one days.
Under the former Act (Coal Mines Regulation Act 1872
§ 30) the Act of 70) and the subsequent procedure is
for the purpose of Arrangements to be made, when
the matter is heard, for the matter in difference being heard
by the arbitrator and umpire, § 17

CORONERS

Under the new Act the relatives of the deceased, any person
nominally appointed by the workmen in the mine, and the
coroner's jury of the mine may now attend the
inquest personally or by counsel, solicitor, or agent, and
the coroner is subject to the order of the coroner.
A coroner is not liable to prosecution for any
act done in the exercise of his duty without the written consent of
the Attorney General, § 65

GENERAL RULES

The new General Rules are Nos 2, 3, 9, 11 26, 39
and the new Act of 12, 17 22 and 31 § 49

Under the new Act the following are the requirements
for the construction of the mine. The quantity
of the gas in the mine must be at least one in
ten of the air and must be contained in a bag to be
used for the purpose (11). Where a fire is
found in the mine must be opened after the
mine has been closed (11th September 1887), the return
of the mine must be not to be inflammable, is
to be contained in the mine by means of a dumb
bell (12), and any mechanical contrivance
must be contained in the mine after the com-
pletion of the Act (1st January, 1888), is to be placed
in the mine and must be to ensure its being uninjured

by explosion (r 3) The inspection before commencing work is to be made within such time immediately before the commencement of each shift as shall be laid by special rules The person appointed to make the report has now to report (1) on the presence of gas, (2) the condition of the roof and sides, (3) the general state, and (4) the condition of the ventilation which list was required to be reported on under the previous Act The report is to be in his own handwriting except in cases where it may be printed or lithographed Two or more shifts succeeding one another without any interval are to be deemed one shift Provision is made for inspection in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift The time so included from appointment as the person appointed is required by the Act for making such inspection (1 4) The state of the guides and conductors in the shafts must now be examined daily (1 5)

Where safety lamps are used they are to be constructed so that they may be safely carried against the ordinary prevailing in the part of the mine in which they are in use, even though the current is variable (1 6) In addition to the places where safety lamps are required to be used, their use is now required in any place working approaching near a place in which there is to be an accumulation of inflammable gas and in any place necessary to work the coal in any part of a ventilating district with safety lamps, naked lights are not to be used in another part of the same ventilating district situated between the place where such safety lamps are used and the return air-way (r 8) The place for examination of the safety lamps is now defined to be either at the surface or at the appointed lamp stations (1 10), and it is provided

vided that such lamp stations are not to be in the return air (r. 11). The restrictions on the unlocking of safety lamps and the possession of lucifer matches, &c., are made more stringent (r. 10).

The provisions in reference to the use of explosives below ground are entirely remodelled. The storage of explosives below ground is still prohibited. It is now permissible to take the cartridges into the mine in a secure case or canister containing five pounds. The previous limit was four pounds. Seams of clay and stratified ironstone not worked in connection with any coal seam, and which contain no coal in the working, are exempted from this provision, and power is given to the Secretary of State to exempt other mines. The prohibition against the use or possession of an iron or steel pricker, tamping rod or stemmer, has now been made absolute, and extended so as to include a scraper and charger. The term "charger" is synonymous with "tamping rod" and "stemmer." The use of coal or coal dust for tamping has been prohibited. It is provided that explosives are not to be pressed into a hole of insufficient size, nor to be unrammed when the hole has once been charged, and no hole is to be bored for a charge within six inches from a hole where a previous charge has misfired. Stringent regulations are provided with reference to shot firing. The restrictions are graduated in respect of the presence of inflammable gas, or of dust, or of both, and these are further regulated according to the sphere in which danger is most to be apprehended (r. 12).

Where a place is likely to contain a dangerous accumulation of water, the working approaching that place is not at any point within forty yards of that place, to exceed eight feet in width, and bore holes are to be provided as formerly (r. 13).

The provision in reference to signalling is now more specific, and in certain cases manholes are to be provided at shorter intervals than formerly (r. 14). There are to be at least two proper travelling ways into every steam engine-house and boiler gallery (r. 15). The prohibition against placing anything in a manhole or place of refuge is made absolute (r. 16).

Every travelling road on which a horse or other draught animal is used underground is to be of sufficient dimensions to allow such animal to pass without rubbing against the roof or timbering (r. 17). The top of every disused shaft is to be kept securely fenced (r. 18). In addition to the top and all entrances between the top and bottom, the sump (if any) of every working ventilating or pumping shaft is to be properly fenced (r. 19).

Where the timbering of the working places is done by the workmen employed in the mine, suitable timber is to be provided at the working place, gate end, pass-bye, siding, or other similar place in the mine convenient to the workmen, and the distance between the sprags, or holing props where they are required, is not to exceed six feet, or such less distance as may be ordered by the employer (r. 22).

Any person employed after the commencement of the Act as an enginemau for the purpose of lowering and raising persons must not be less than twenty-two years of age (r. 24). The winding apparatus must either be provided with some automatic contrivance to prevent overwinding, or the cage, when men are being raised, is not to be wound up at a speed exceeding three miles an hour after the cage has reached a point in the shaft to be fixed by the special rules (r. 26). If the drum of an engine used for lowering or raising persons is not on the crank-shaft there is to be an adequate break on the drum shaft

(r. 30). A proper safety-valve, steam-gauge, and water-gauge is to be attached to each steam boiler, whether separate or in a range (r. 32). A barometer and thermometer is to be placed above ground in a conspicuous position near the entrance to the mine, (r. 33).

When persons are employed under ground, ambulances or stretchers, with splints and bandages, are to be kept at the mine ready for immediate use in case of accident (r. 34). The workmen may appoint any two persons, not being mining engineers, who are practical working miners, to make a periodical inspection of the mine, &c., on their behalf (r. 35).

No person not employed as a coal or ironstone getter at the passing of the Act (19th September, 1887), is to be allowed to work alone in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have been previously employed for two years in or about the face of the workings of a mine (r. 39).

SPECIAL RULES.

In addition to the other matters to be dealt with in the special rules, the Act is to provide for the "convenience" of the persons employed in or about the mine.

THE BILLANCOU.

The remaining clauses of the Act contain the provisions relating to legal proceedings, the interpretation and application of the Act, certain transitory provisions, and the repeal of prior Acts.

THE COAL MINES REGULATION ACT, 1887.

50 & 51 VICTORIA. CHAPTER 58

An Act to consolidate with amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881.

[16th September, 1887]

WHEREAS it is expedient to repeal and re-enact with amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881 :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Repeal of prior Acts—The statutes enumerated in the preamble are entirely repealed by this Act. The repeal does not affect any exemption granted, or other thing done or suffered before the commencement of this Act (1st January, 1888) ; and all offences committed, and penalties incurred, and proceedings commenced before that date may be punished, recovered, continued and completed, as if this Act had not been passed, § 84. The provisions of the repealed Acts with respect (1) to boys under the age of twelve employed in any mine below ground, (2) to boys or girls employed above

2 The following information is for the use of the
 Internal Security Section of the FBI
 (New York) on the subject of the

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1972, 75 & 76 11 t 77 1

2. That all persons who have been convicted of a crime involving the use of a firearm, shall be prohibited from possessing a firearm for a period of ten years after the date of conviction.

Any question arising here from the amendments is as to whether any particular measure is included in the Act, or under any Act more than one bill is to be referred to the committee. 451-71

In the case of *Se v. Eichen*, 23 W.R. 750 (1951), the fact a white jury was selected by means of the "lottery" is a matter within the purview of the Illinois In Remediation Act, 1972.

The importance of the ...
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... The word ...

PART I

Employment of Boys, Girls and Women

4. No boy under the age of twelve years, and no girl or woman of any age shall be employed in or allowed to be for the purpose of employment in any mine below ground.

Definition of terms—The terms “juvenile” and “child” contained in the former Act (s. 2 & 36 V. i. c. 7) are now reciprocal.

"Boy means male under the age of sixteen; a
'Girl' means a female under the age of sixteen years."

§ 4

"Wherein a female of the age of sixteen years or upwards."

The cost of employment of boys below ground—The provisions of this Act shall not apply to boys between the age of thirteen and fifteen years who are employed in the same mine or in the same district. Any boy under twelve years of age shall not be employed in any mine, however situated, or employed in like manner and subject to the same regulations as before that date, and the provisions of this Act shall apply with respect to the employment of such boys to continue to apply accordingly, s. 52

How far
it applies
to boys
employed
in a
mine

5. A boy of or above the age of twelve years shall not be employed in or allowed to be for the purpose of employment in any mine below ground for more than fifty-four hours in any one week, nor more than ten hours in any one day, nor otherwise than in accordance with the regulations herein after contained with respect to the employment of boys in a mine below ground.

Application of the regulations—In relation to the regulations contained in the next section, the provisions of this Act shall apply to the employment of all boys under fifteen years of age who are employed in a mine below ground.

It is the duty of every boy is to report the name of the mine in which he is employed to the nearest police station, s. 58

How far
it applies
to boys
employed
in a
mine

6. With respect to the employment of boys in a mine below ground the following regulations shall have effect, that is to say,

- (1) There shall be allowed an interval of not less than one hour between the period of employment on Friday and the period of employment on the following Saturday, and in other cases of

not less than twelve hours between the period of employment 6

- (2) The period of each employment shall be held to begin at the time of leaving the place to end at the time of returning to the same place.
- (3) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

Period of employment—In calculating the period of employment at the time of leaving the place, the time spent in the place, and in returning to the same place, shall be included.

Education of boys and girls—The Education Act (35 & 36 Vict. c. 76) relative to the education of boys and girls under thirteen years of age employed in connection with mining, is not affected by this Act. The obligations and liabilities of employers of boys and girls under thirteen years of age, who have not received elementary education, will now fall under the Education Acts. The duties imposed on employers of mines under the Education Regulations of the former Act will now devolve on the employers under the Education Act.

In reference to Scotland, it is specially provided that 'nothing in this Act shall affect any provision in the Education (Scotland) Acts, 1872 to 1893,' s. 76.

See also note on s. 5.

7. With respect to boys, girls, and women employed above ground, in connection with any mine, the following provisions shall have effect Employment of Boys, Girls and Women above Ground

- (1) No boy or girl under the age of twelve years shall be so employed.
- (2.) No boy or girl under the age of thirteen years shall be so employed—

(a) for more than six days in any one week,

or

s 7.

- (b.) if employed for more than three days in any one week, for more than six hours in any one day ; or
- (c.) in any other case for more than ten hours in any one day :
- (3.) No boy or girl of or above the age of thirteen years and no woman shall be so employed for more than fifty-four hours in any one week or more than ten hours in any one day :
- (4.) No boy, girl, or woman shall be so employed between the hours of nine at night and five on the following morning, nor on Sunday, nor after two o'clock on Saturday afternoon :
- (5.) There shall be allowed an interval of not less than eight hours between the termination of employment on Friday and the commencement of employment on the following Saturday, and in other cases of not less than twelve hours between the termination of employment on one day, and the commencement of the next employment :
- (6.) A week shall be deemed to begin at midnight on Saturday night, and to end at midnight on the succeeding Saturday night :
- (7.) No boy, girl, or woman shall be employed continuously for more than five hours, without an interval of at least half-an-hour for a meal, nor for more than eight hours on any one day, without an interval or intervals for meals amounting altogether to not less than one hour and a-half.
- (8.) No boy, girl, or woman shall be employed in moving railway waggons.

The provisions of this section as to the employment of boys, girls, and women after two o'clock on Saturday afternoon, shall not apply in the case of any mine in Ireland, so long as it is exempted by order of a Secretary of State.

§ 7.

Age of boys and girls.—The provisions of this Act relating to the employment of boys and girls below ground do not apply to any boy or girl under twelve years. This provision does not apply to any boy or girl under twelve years of age lawfully employed above ground before the commencement of this Act (1st January, 1888); but any such boy or girl may continue to be so employed, subject to the same provisions as to children as before that date, and the provisions of the Act in relation to this Act with respect to the employment of such boys or girls do continue to apply accordingly, § 82. See also § 75.

Railway waggoners.—The provisions of this Act in relation to the employment of boys, girls, and women employed above ground is new. The term "railway waggoners" is somewhat ambiguous. As the moving of tubs, trucks, and other similar material is the common employment of boys, the term "railway waggoners" is intended to be included in the term "railway waggoners."

Additional regulations.—The name, age, residence, and date of first employment of all boys, girls, and women employed above ground are to be entered in a register kept at the office of the mine, § 8. Where girls and women are employed, proper accommodation is to be provided, in pursuance of the Public Health Acts; see § 71.

8. (1.) The owner agent or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Secretary of State may from time to time prescribe or sanction, the name, age, residence, and date of first employment of all boys employed in the mine below ground, and of all boys, girls, and women employed above ground in connection with the mine; and shall on request, produce the register to any inspector under this Act, and to any officer of a

Register to be kept of boys, girls, and women employed.

§ 8.

school board or school attendance committee in the district in which the mine is situate, at the mine at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(2.) The immediate employer of every boy, other than the owner agent or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine, or to some person appointed by that manager, that he is about to employ the boy in the mine.

Record of males above sixteen.—In addition to the register required by this section, a record of all males of sixteen years of age and upwards, employed both above and below ground, will require to be kept, in order to supply the information for the annual return, required by § 33, *infra*. An unofficial and optional form for this record is given in the Appendix.

Form and production of register.—A form of the register required by this section will be found in the Appendix. The express power given to the Secretary of State to prescribe or sanction the form of register is new, although his implied power to do so was exercised under the former Act, 35 & 36 Vict. c. 76. The production of this register to any officer of a school board or school attendance committee in the district in which the mine is situated, with power to him to inspect and copy the same, is also new, and has been rendered necessary in consequence of the duties of Inspectors of Mines under the former Act, with reference to the education of boys and girls under thirteen years of age, being now transferred to the authorities under the Education Acts. See notes under § 6. It will be observed that *any Inspector under this Act* has still the same power which he formerly had to call for production of this register, and to inspect and copy the same.

For interpretation of terms "owner" and "agent," see § 75.

Penalty for
employment
of persons in
contravention
of Act.

9. If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, any provision of this Act with respect

to the employment of boys, girls, or women, or to the register of boys girls and women, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this Act, to prevent the contravention or non-compliance.

§ 9.

Liability for contravention.—In the case of *Reg. v. Healey*, 9 L.T. 827, decided under 5 & 6 Vict. c. 99, it was held that to make a man liable to conviction for “allowing” a breach of the Act, it was necessary that some knowledge or acquiescence on his part should be brought home to him.

Where a boy or girl has been employed in contravention of the Act on the misrepresentation of his or her parent or guardian that he or she was of proper age, the owner, agent, or manager of the mine (if he has acted in *bona fide*), will be exempted from any penalty under the Act, and such parent or guardian will be deemed guilty of an offence against the Act, § 64.

10. (1.) After a request in writing by the principal teacher of a public elementary school which is attended by any boy or girl employed in or in connection with a mine, the person who pays the wages of the boy or girl shall as long as he employs the boy or girl pay to the principal teacher of that school, for every week that the boy or girl attends the school, the weekly sum specified in the application, not exceeding twopence per week, and not exceeding one-twelfth part of the wages of the boy or girl, and may deduct the sum so paid by him from the wages payable for the services of the boy or girl.

Payment of
school fees
out of wages.

§ 10

(2) If any person after such application refuses to pay on demand any sum that becomes due as aforesaid, he shall be liable to a penalty not exceeding ten shillings.

Public elementary school—The term “public elementary school” means in Scotland a State aided school, § 76.

Audit of deductions for education—The terms of § 9 of the Truck Amendment Act, 1897 (50 & 51 Vict. c. 46), as to deductions from wages for the education of children, will apply in like manner to the notes to the next section of this Act.

See also §§ 6, 8, 75 of this Act, and notes thereto.

Wages.

Prohibition
of payment
of wages at
public houses

11. (1) No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop, or place for the sale of any spirits, beer, wine, cyder, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

(2) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act, and in the event of any such contravention or non-compliance by any person whatsoever, the owner, agent and manager of the mine shall each be guilty of an offence against this Act unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

Amendment—This section gives the following provisions of the Truck Amendment Act 1887 (50 & 51 Vict. c. 46), which came into force on 16th September, 1887 and is applicable to the United Kingdom—

§ 12.

tracted to be gotten, or in respect of any tubs baskets or lutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him; such deductions being determined in such special mode as may be agreed upon between the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner agent or manager, or (if any check weigher is stationed for this purpose as herein-after mentioned), by such person and such check weigher, or in case of difference by a third person to be mutually agreed on by the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a chairman of a court of quarter sessions within the jurisdiction of which any shaft of the mine is situate.

(2.) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

(3.) Where it is proved to the satisfaction of a Secretary of State, in the case of any mine or class of mines employing not more than thirty persons underground, to be expedient that the persons employed

therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Secretary of State may, if he think fit, by order allow the same either without conditions or during the time and on the conditions specified in the order.

§ 12.

Payment by weight.—Persons paid by weight are in future to be paid “according to the actual weight gotten by them of the mineral contracted to be gotten.” Previously, payment required to be made according to the weight of the “mineral gotten.” The meaning of the expressions “gotten,” “mineral gotten,” and “mineral contracted to be gotten,” in the corresponding provisions of the Coal Mines Regulation Act, 1872, § 17, will be found carefully interpreted by Lord McLaren in the instructive case of *Hynd and Another v. Spewart & Co.*, 5th November, 1884, 22 Scot. L. Rep. 702.

Place of weighing mineral.—The mineral gotten is to be truly weighed “at a place as near to the pit mouth as is reasonably practicable.” There was formerly no indication as to where the weighing should take place. The meaning of the expression “reasonably practicable” is defined in the notes to § 49, and the case of *Wales v. Thomas* there cited.

When mineral to be considered as “gotten.”—It will be a question of agreement between employer and employed as to whether coal or mineral contracted for is to be considered as “gotten” (or in a deliverable condition) as between master and miner, when put into the hutch (or tub or tram) at the working face, or at the pit-head; and as to whether, while the mineral is not to be weighed until it is taken to the pit-head, the wages are to be ascertained as if the hutches were weighed at the working face. See *Hynd and Another v. Spewart & Co.*, *supra*.

Absence of agreement as to deductions.—It will be observed that it is not obligatory under the Statute to make deductions for foreign material or improper filling, but only permissive for the master and miner to come to an agreement under which such deductions are to be made. In the absence of such an agreement, it seems that the master would be entitled to reject

§ 12.

a tub or hutch containing material other than that contracted to be gotten, and to return the same to the miner for the purpose of having such foreign material separated from the mineral contracted to be gotten. It will be found convenient in practice, however, for the master and workmen to come to an agreement for the determination of deductions by one of the methods provided by this section, as deductions cannot otherwise be made.

Agreements as to deductions.—In reference to agreements for such deductions it was laid down by Lord McLaren in the case of *Hynd and Another v. Spewart & Co., supra*, decided under the corresponding provisions of the Coal Mines Regulation Act, 1872, § 17, that, "Any quantitative contract regarding wages is permitted, provided (1) that the measure of wages is weight of mineral gotten, and (2) that no arbitrary deductions are to be made from that measure."

Contract for "round coal" over the screen.—An agreement between miners and their employers to the effect that the former should be paid by the amount of "round coal" gotten by them as weighed at the pithead, after passing the contents of their hutches over a screen which separated small coal and dross from the round coal, was held by Lord McLaren to be valid and consistent with § 17 of the Coal Mines Regulation Act, 1872, *Hynd and Another v. Spewart & Co., supra*; and an opinion was expressed by his Lordship that, in such a contract, dross created in the course of transmission of the coal from the working face to the pithead, and in the process of screening, falls to be deducted as well as dross improperly filled, &c.

"Billy Fairplay."—The machine or balance commonly known in the mining trade as "Billy Fairplay," which separately weighed the "round coal," and the "small coal and dross" separated by the screen, is a lawful weighing machine for ascertaining the weight of mineral gotten upon which the wages of miners are to be paid. *Hynd and Another v. Spewart & Co., supra*.

Forfeiture of tub or hutch.—An agreement that a miner should receive nothing for a hutch of coal which contained an admixture of stones, instead of having a deduction made in respect of such admixture was held (where the proportion of stones was very small) not to be an agreement authorised by

§ 17 of the Coal Mines Regulation Act, 1872. *Goulie v. Eylington Iron Co.*, 2 Scot. L. Rev. 366 (a Sheriff Court case).

§ 12.
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It does not appear to be settled whether an agreement to the effect that a tub or hutch would be liable to rejection (1) if it contained more than a maximum quantity of dust or other foreign material, or (2) if the ratio of mineral contracted to be gotten did not exceed by a fixed proportion the dust or other foreign material contained in the hutch or box would be valid. The opinions expressed in the cases cited, when viewed in the light of the alterations made by this Act on the former law, are rather favourable to the validity of such an agreement.

Uniform deductions.—In the case of *Stewart v. Dixon*, 1 Scot. L. Rev. 243 (a Sheriff Court case), it was held that the requirements of § 17 of the Coal Mines Regulation Act, 1872, were complied with by the gross weight of each hutch (or tub) and its contents being taken and an uniform agreed on deduction made therefrom for the tare of the hutch, and for materials other than the mineral contracted to be gotten. See also subsequent notes under “Modes of determining deductions.”

Modes of determining deductions.—The deductions referred to in this section must in future be determined:—

- (1.) In such special mode as may be agreed upon between the owner, agent, or manager of the mine on the one hand, and the persons employed therein on the other; or,
- (2.) By some person appointed in that behalf by the owner, agent, or manager, and the check-weigher (if any); or,
- (3.) By such person alone where no check-weigher is stationed for the purpose (or where the check-weigher so stationed is absent, § 13 (3)); or,
- (4.) In the case of difference, by a third person, to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a chairman of a Court of Quarter Sessions (in Scotland, by the sheriff of the county, § 76, and in Ireland, by a County Court judge, § 77) within the

§ 12.

jurisdiction of which any shaft of the mine is situate.

The first method is entirely new, and will legalise and confirm the use of mechanical contrivances for the ascertainment of deductions, or a rule of employment or other agreement establishing an average percentage of deduction for stones, dirt, and other material not contracted to be gotten.

Objections to deductions.—It cannot be too carefully borne in mind by miners, where they have reason to believe the statutory provisions are being infringed, that their remedy should be obtained at the time, and not after periodically accepting payment of their wages. See *Stewart v. Dixon*, *supra*.

Exemption from payment by weight.—In sub-section (3) of this section, the restriction on the power of the Secretary of State (who could previously grant such exemption to any mine or class of mines without reference to the number of persons employed therein), is to be noted. Where an exemption is required, it may be found convenient for the workmen to meet together and minute a resolution as to the method of payment desired. If this course be followed, the chairman of the meeting should be authorised to sign the necessary representation to the Secretary of State, and so obviate the necessity for the signature of all the workmen. A form of joint representation, which it is thought may be useful, will be found in the Appendix.

Appointment
on part of men,
and removal
of check-
weigher

13. (1.) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (in this Act referred to as "a check weigher") at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions in order that he may on behalf of the persons by whom he is so stationed take a correct account of the weight of the mineral or determine correctly the deductions as the case may be.

(2.) A check weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the taring of tubs and trams where necessary; and if at any time proper facilities are not afforded to a check weigher as required by this section, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

§ 13.
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(3.) A check weigher shall not be authorised in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen or with the management of the mine; but shall be authorised only to take such account or determine such deductions as aforesaid, and the absence of a check weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner agent or manager, unless the absent check weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with: Provided always, that nothing in this section shall prevent a check weigher giving to any workman an account of the mineral gotten by him, or information with respect to the weighing, or the weighing machine, or the taring of the tubs or trams, or with respect to the deductions or any other

§ 13. matter within the scope of his duties as check weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4.) If the owner agent or manager of the mine desires the removal of a check weigher on the ground that the check weigher has impeded or interrupted the working of the mine, or interfered with the weighing, or with any of the workmen, or with the management of the mine, or has at the mine to the detriment of the owner agent or manager done anything beyond taking such account determining such deductions or giving such information as aforesaid, he may complain to a court of summary jurisdiction, who, if of opinion that the owner agent or manager shows sufficient *prima facie* ground for the removal of the check weigher, shall call on the check weigher to show cause against his removal.

(5.) On the hearing of the case the court shall hear the parties, and, if they think that at the hearing sufficient ground is shown by the owner agent or manager to justify the removal of the check weigher, shall make a summary order for his removal, and the check weigher shall thereupon be removed, but without prejudice to the stationing of another check weigher in his place.

(6.) The court may in every case make such order as to the costs of the proceedings as the court may think just.

(7.) If in pursuance of any order of exemption made by a Secretary of State, the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms

relating to weighing shall be construed accordingly. § 13.

(8.) If the person appointed by the owner, agent, or manager to weigh the mineral impedes or interrupts the check weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing machine or the tare in order to prevent a correct account being taken of the weighing and taring, he shall be guilty of an offence against this Act.

Stationing of check-weigher.—A check-weigher may now be stationed at each place appointed for determining deductions as well as at each place appointed for the weighing of the mineral. Should these places be at a distance from each other, the persons employed in the mine will probably require to appoint a check-weigher at each of such places, unless the deductions be determined otherwise than by the owner's representative and the check-weigher. The necessity for this will be apparent on reference to sub-section (3) of this section which *inter alia* provides that "the absence of a check-weigher from the place at which he is stationed shall not be a reason for interrupting, or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner, agent, or manager, unless the absent check-weigher had reasonable grounds to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with." Where there are several places appointed for weighing the mineral (as in the case of several shifts in connection with the same mine) or for determining deductions (as in the case of emptying the tubs or hutches at different banks or sidings) and such places are separated by any considerable distance, the difficulty of having a check-weigher at each place will be increased. Where the deductions are determined otherwise than between the owner's representative and the check-weigher (as by mechanical contrivance or average deduction), this difficulty will, to a great extent, be overcome. It will be observed that the provision authorising the deter-

§ 13.

mination of deductions in the absence of the check weigher is an important alteration on the prior law. Under §§ 17 and 18 of the Coal Mines Regulation Act, 1872, it was held that not only the gross weight of mineral gotten, but also any deductions therefrom, fell to be ascertained under the supervision of the check weigher, see *Bourne v Netherseal Colliery Co*, 22 L T 112. See also § 14 and *indicative notes*.

It is not now necessary that a check weigher should be appointed from among the persons employed at a mine belonging to the owner of the mine at which he is to be stationed, which was formerly the case under § 18 of the Coal Mines Regulation Act, 1872. Under that section it was practically possible for the mine owner to get rid of an objectionable check weigher, by simply dismissing all the men employed, and taking them all on again the next day, with the exception of the check weigher, see *Whitehead v Holdsworth*, 4 L T D 13. So, too, as the check weigher ceases on his appointment to be employed by the mine owner, the mine owner is unable to re-employ him after he had ceased to hold the appointment, unless in the interval he had again entered the mine owner's employment, see *Hopkinson v Gaurant*, 14 Q B D, 592.

Facilities to be afforded check weigher—The provision for facilities being afforded to the check weigher for examining and testing the weighing machine, and checking the taring of tubs and trams, is new, nor was the determination of deductions stated as a duty of the check weigher under the former statutes. The terms of sub-sections (3) and (4) seem to infer that the examination and testing of the weighing machine, and checking the taring of tubs and trams, will be effected during the intervals of work, otherwise it is difficult to conceive the same can be carried out while these appliances are in use without impeding or interrupting the working of the mine.

An opportunity given to the check weigher to be present at the proper time and place for making such deductions, and to weigh the deductions where necessary, would probably be held as sufficient facilities for "determining the deductions," under § 12.

Powers of check weigher—The powers of the check weigher are —

13

- $$\begin{aligned} & \text{(1)} \quad \Gamma \rightarrow \Gamma \\ & \text{(2)} \quad \Gamma \rightarrow \Gamma \\ & \text{(3)} \quad \Gamma \rightarrow \Gamma \\ & \text{(4)} \quad \Gamma \rightarrow \Gamma \end{aligned}$$

[illegible]

Removal of the Trench.—The great and chief object of the
the removal of the trench is now a number
XX—

- [illegible]

The first two variables are not statistically significant, but the third variable is. The third variable is significant at the 1% level, but the p-value is 0.011.

In the case of *Hydrophilus* (11005-6) which breed under the water, I have found that when I put them in the water, they will swim, but when I put them on the land, they will not move, and when I put them in the water, they will swim, but when I put them on the land, they will not move.

13

That is a mitigation in complaint elsewhere, it is covered by the fourth and fifth grounds.

What acts may fall within these various classes it is difficult to say definitely. In instance, if the check weigher acts in a way to the miners' protection (e.g. or other similar institution) in obedience to orders received in that capacity, calls in a claim of the mining workmen in a protest against some conduct on the part of the employer, to settle thereby the employer or interrupt the working of the mine, or interfere with the workmen or with the management of the mine, it does he thereby fall within the sixth class of complaint?

The check weigher should be careful not to post any notices or to call any meeting, *at the mine*, as such acts would probably render him liable to conviction for an offence under this section.

All complaints under the Act (not otherwise expressly provided for), must be made within three months from the time when the matter of the complaint arose, § 62. With reference to proceedings for the removal of a check weigher, see § 61 and later notes.

In reference with the check weigher—The provisions of subsection (5) are entirely new.

1. In the
of check
weigher

14. (1) Where a check weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid, his proportion of the check weigher's wages or recompense, notwithstanding that any of the persons by whom the check weigher was appointed may have left the mine or others have entered the same since the check weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned

1. The first is the fact that the distribution of the population is not uniform, but is concentrated in the hands of a few individuals. This is the case with the population of the United States, where the population is concentrated in the hands of a few individuals.

2. The second is the fact that the population is not homogeneous, but is composed of different groups. This is the case with the population of the United States, where the population is composed of different groups.

(1) The first group is the group of the population which is concentrated in the hands of a few individuals. This is the case with the population of the United States, where the population is concentrated in the hands of a few individuals.

(2) The second group is the group of the population which is composed of different groups. This is the case with the population of the United States, where the population is composed of different groups.

(3) The third group is the group of the population which is concentrated in the hands of a few individuals. This is the case with the population of the United States, where the population is concentrated in the hands of a few individuals.

It is thus seen that the population of the United States is not uniform, but is concentrated in the hands of a few individuals. This is the case with the population of the United States, where the population is concentrated in the hands of a few individuals.

§ 14.
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not render any one liable for his wages. Thus, if out of fifty persons employed in a mine, and paid by weight, only twenty-five voted for the appointment of a check-weigher, and the other twenty-five abstained from voting, an appointment so made would, it is conceived, be invalid.

Dismissal of check-weigher by workmen.—A majority of the persons entitled to station a check-weigher, will also have power to remove him and station another in his place. The notice to the check-weigher would probably be the same as between the employer and the miners.

Retention of check-weigher's wages by owner.—This provision (sub-section 2) is only permissive and not obligatory on the owner or manager.

Application
of 41 & 42
Vict. c. 49
to weights,
&c. used in
mines.

15. (1.) The Weights and Measures Act, 1878, shall apply to all weights, balances, scales, steelyards, and weighing machines used at any mine for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing machines used for trade.

(2.) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing machine.

(3.) The inspector shall also inspect and examine the measures and gauges in use at the mines within

his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

15.
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(4.) An inspector may, for the purposes of this section, without any authorisation from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scale, balances, steelyards, and weighing machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorised in writing by a justice of the peace, under section forty-eight of the Weights and Measures Act, 1878, with respect to any such weights, measures, scales, balances, steelyards, and weighing machines as are so mentioned; and all the provisions of that section, including the liability to penalties, shall apply to such inspection.

(5.) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

The Weights and Measures Act, 1878 (41 & 42 Vict. c. 49), applies to the United Kingdom.

"Billy Fairplay."—The machine or balance known in the mining trade as "Billy Fairplay" is a level weighing machine for ascertaining the weight of mineral often, upon which the wages of miners are to be paid. *Hip and Another v. Spowart*, 22 8 of. L. Rep. 702.

Mineral gotten—For the meaning of the expression "mineral gotten" see notes to s. 12.

Contract for "long weight."—In the case of *Giles v. Jones*, 11 Ex. 393; 24 L.J., Ex. 259, decided under a former Weights and Measures Act (5 & 6 Will. IV. c. 63), it was held that a contract for a number of tons of iron, "long weight" was valid as being a multiple of the standard pound.

§ 15.

This decision appears to be still applicable under the present Act.

Standard weight.—Where miners are paid by weight, but the wages are not calculated on the imperial ton of twenty hundredweights, there should be a distinct agreement or rule setting forth the standard or fixed quantity, such as the number of pounds or hundredweights, on which the wages are to be calculated.

Inspection.—The provision for the inspection of weights and balances once in six months is new. If an additional inspection be desired within the six months, and in order to make the same an inspector conveys his standard weights to the mine, it would seem that he is entitled to the expenses thereby occasioned. See *Sharp v. Stewart*, 3 Scot. L. Rev. 200 (a Sheriff Court case).

Powers of inspector.—Under § 48 of the Weights and Measures Act, 1878, referred to in sub-section (4) of this section, the inspector, or a justice of the peace, “may, at all reasonable times, inspect all weights, measures, scales, balances, steelyards, and weighing machines, within his jurisdiction, which are used, or in the possession of any person, or on any premises for use for trade, and may compare every such weight and measure with some local standard, and may seize and detain any weight, measure, balance, or steelyard which is liable to be forfeited in pursuance of this Act. and may, for the purpose of such inspection enter any place, whether a building or in the open air, whether open or enclosed, where he has reasonable cause to believe that there is any weight, measure, scale, balance, steelyard, or weighing machine which he is authorised by this Act to inspect,” and further, “Any person who neglects, or refuses to produce for such inspection, all weights, measures, scales, balances, steelyards, and weighing machines in his possession or on his premises, or refuses to permit the justice or inspector to examine the same or any of them, or obstructs the entry of the justice or inspector under this section, or otherwise obstructs or hinders a justice or inspector acting under this section, shall be liable to a fine not exceeding five, or, in the case of a second offence, ten pounds.”

The provision in sub-section (5) is also new.

Single Shafts.

. 16.

16. (1.) After the commencement of this Act the owner agent or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say,—

- (a.) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine :
- (b.) Such shafts or outlets must not at any point be nearer to one another than fifteen yards ; and there shall be between such two shafts or outlets a communication not less than four feet wide and three feet high, and in the case of communications made after the commencement of this Act between shafts or outlets, not less than four feet high.
- (c.) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine ; and such apparatus if not in actual use at the shafts or outlets, shall be constantly available for use.

(2.) Every owner agent and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act.

§ 16. (3.) Any of Her Majesty's superior courts, whether any other proceedings have or have not been taken, may, on the application of the Attorney General, prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment, in contravention of this section, and may award such costs in the matter of the injunction as the court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(4.) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent or manager of the mine not less than ten days before the application is made.

Double haul —The provisions requiring the two shafts or outlets to be separated by a distance of not less than fifteen feet is new. Previously it was only ten feet. The alteration does not apply to a mine (1) which is provided with two shafts sunk before 1st January, 1885, but at that time separated by a distance of less than ten feet, or (2) which is provided with two shafts commenced to be sunk before 1st January, 1885, but separated by a distance of more than ten feet, but less than one hundred, or (3) which the Secretary of State may exempt by reason of the character of the seams, or other circumstances. 1

Commencement of two shafts —It will be observed that in the case of mines to which the provisions of this Act between shafts or outlets, the care to be made good of the shafts, one foot higher than previously.

The Bill is a good one for lowering and saving persons at work shafts and not in actual use, must now, in addition to being at the work, be kept 'constantly' available for use.

In term "Attorney General" means —In Scotland, the Lord Advocate, § 76, and in Ireland, the Attorney General for Ireland. § 77. See § 75 for meaning of term "shaft."

(Obviously sub-section (2) ought to read thus: "E (1) owner, agent, or manager."

16.

17. No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Accounts
not to be
in compliance
with Act

18. The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

Sections
from pro-
visions to
shfts

(1.) In the case of a new mine being opened—

(a.) To any working for the purpose of making a communication between two or more shafts; or

(b.) To any working for the purpose of searching for or proving minerals;

so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet: nor

(ii.) To any proved mine so long as it is exempted by order of a Secretary of State on the ground either—

(a) That the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable; or

§ 18.

- (b) That the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam ;

and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with a single shaft or outlet ; nor

(iii.) To any mine—

- (a) While a shaft is being sunk, or an outlet being made ; or
 (b) One of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine ;

so long as the mine is exempted by order of a Secretary of State, and as the conditions (if any) annexed to the order of exemption are duly observed. The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifteen yards shall not apply to any mine which is provided with two shafts sunk before the first day of January one thousand eight hundred and sixty-five but at that time separated by a distance of less than ten feet, or commenced to be sunk before the commencement of this Act but separated by a distance of more than ten feet and less than fifteen yards.

The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of a Secretary of State by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions (if any) annexed to the order of exemption are duly observed. § 18.

Exemptions.—The ground for exemption in the case of a proved mine, where the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned “by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable,” is new.

The special ground for exemption in the case of mines of stratified ironstone, shale, and fire-clay, formerly specified, has not been re-enacted, by this Act.

The exemption (*a*) of sub-section (iii.) is new. It will be observed that it is not essential for exemptions under this sub-section that the mine should be one of small output.

See form of application for exemption in Appendix

Division of Mine into Parts.

19. (1.) Where two or more parts of a mine are worked separately, the owner agent or manager of the mine may give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine. Division of mine into parts

(2.) If a Secretary of State is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or

§ 19. otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner agent or manager of the mine ; and the owner agent or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district stating that he declines so to acquiesce, and thereupon the matter shall be determined by arbitration in manner provided by this Act ; and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

Notices required —The manager is now empowered to give the notice required by this section. He was not, prior to the Act, entitled to give such notice. A form of application for division of a mine into parts, and a form of notice declining to acquiesce in objections by inspector to division of mine, will be found in the Appendix.

Arbitration, &c. —The provisions of the Act with reference to arbitration are contained in § 17. See §§ 3, 75, for meaning of term "mine."

Certificated Managers.

Appointment
of manager of
mine

20. (1.) Every mine shall be under a manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice to the inspector of the district of the manager's name and address.

(2.) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a first class certificate under this Act.

(3.) If any mine is worked for more than fourteen

days without there being such a manager for the mine as is required by this section, the owner and agent of the mine shall each be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds for every day during which the mine is so worked.

§ 20.
—

Provided that—

- (a.) The owner of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section ;
- (b.) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of the district a written notice of the manager's name and address, and of the reason for his appointment ; and
- (c.) A mine in which not more than thirty persons are employed below ground shall be exempt from the provisions of this section, unless the inspector of the district, by notice in writing served on the owner or agent of the mine, requires that it be under the control of a manager.

Manager.—There is no definition of the word “manager” in the Act. The agent is defined as superior to the manager.

§ 20.

§ 75. The manager is a fellow-servant with the workmen, *Howells v. Landore Steel Co.*, 10 L.R., Q.B. 62; 42 L.J., Q.B. 25; 23 W.R. 335.

A form of notice to an inspector of the nomination of a manager will be found in the Appendix.

Qualifications for manager.—The qualifications required for the position of manager under this Act are the same as under the former statute (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76). The following persons (other than a contractor for mineral, or person employed by him) are qualified to act as manager of a mine under this Act:—

- (1.) The registered holder of a certificate of competency granted by a Secretary of State prior to 1st January, 1888, and in force at that date, § 79.
- (2.) The registered holder of a certificate of service granted (under any of the Acts repealed by this Act) by a Secretary of State prior to 1st January, 1888, and in force at that date, § 79.
- (3.) The registered holder of a first-class certificate granted under this Act.

The qualifications required by applicants for a first-class certificate are referred to under § 25.

Duties of manager.—The duties of the manager are to exercise—

- (1.) The control, management, and direction of the mine, § 20; and
- (2.) The daily personal supervision of the mine, where such supervision is not exercised by an under-manager nominated and qualified under this Act, § 21.

The meaning of the word “supervision” is dealt with in the notes to the next section.

Responsibility of manager.—The manager is responsible for the enforcement and proper observance of the whole provisions of the Act in so far as these relate to the mine under his management. This responsibility is not affected by the nomination of an under-manager under this Act, § 22. The manager is also responsible for any contravention of, or non-compliance with, any of the penal provisions of the Act *by any person whomsoever*: see §§ 9, 11, 12, 50, 57, and relative notes. In the event of such contravention or non-compliance

by another person being proved, the burden of proving his innocence will lie on the manager.

§ 20.

As in the former Act, the agent is not included in proviso (a) of sub-section 3. If the mine is to be worked for a longer period than two months under provision (b) of sub-section 3, only intending applicants for a first-class certificate of competency will be eligible for appointment. Where a mine is exempted under sub-head (c) of sub-section 3, the particulars contained in Part B of the annual return are not required unless or until a Secretary of State otherwise prescribes, § 34. It will be kept in view that there is now no exemption of mines on the ground of small out-put.

21. (1.) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision shall be exercised either by the manager, or by an under-manager nominated in writing by the owner or agent of the mine.

Daily supervision of mine by manager or under-manager.

(2.) Every person so nominated must hold either a first class or second class certificate under this Act, and shall, in the absence of the manager, have the same responsibility, and be subject to the same liabilities as the manager under this Act; but the nomination of an under-manager shall not affect the personal responsibility of the manager under this Act.

"Supervision."—The term "supervision" is not defined in the Act. Daily personal supervision was required to be exercised solely by the manager under the Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76. It may now be exercised either by the manager or the under-manager duly nominated and qualified under this Act. The expression in the Coal Mines Regulation Act, 1872, § 26, was "daily supervision," and not "daily *personal* supervision," as in this section; but in the case of *Plant v. The Chaddle Valley Co.*, Q.B.D., 29th November, 1882, Lord Coleridge, C.J., and Mr. Stephen, J. (not reported), it was held that the true con-

§ 21

struction of the Coal Mines Regulation Act, 1872, required the manager to be in the mine day by day to supervise it, and if at any time he desired to be away, then the Act required that he should provide some certificated colliery manager to fill his place during his period of absence. This decision should be kept carefully in view by the manager or undermanager, as the case may be, whose duty it is to exercise the daily personal supervision of the mine.

Qualifications for under manager—The position of under manager is created by this Act. The following persons (other than a contractor for mineral, or person employed by him, neither of whom is liable for the post of manager or under manager under this Act § 22), are qualified to act as under manager of a mine under this Act—

- (1) The registered holder of a certificate of service granted in terms of § 80 of this Act
- (2) The registered holder of a second class certificate granted under this Act, § 23
- (3) The registered holder of a first class certificate, or its equivalent

The qualifications required by applicants for a second class certificate of competency are referred to under § 21, and for a certificate of service under § 80.

The under manager must be nominated in writing by the owner or agent of the mine, as the manager is not empowered to make such nomination.

Duties of under manager—The primary duty laid on the under manager by the Act is the daily personal supervision of the mine when such supervision is not exercised by the manager. He will represent him the mine day by day, as in the case of the manager. In the absence of the manager, the whole burden of the law will fall upon him, but even when the manager is present the under manager will require to exercise a degree of personal control necessary for the efficient working of the mine.

Possibilities for under manager—In the absence of the manager the Act imposes on the under manager the same responsibilities as the manager, and makes him subject to the same penalties, which, however, at times the personal responsibility of the manager himself. See notes on previous sections.

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§ 23.

Certificates.—The first-class certificate corresponds with the certificate of competency for manager under the Coal Mines Regulation Act, 1872. The second-class certificate, and the official thereby created, are new.

The provision requiring an applicant for a certificate of competency to have had five years' practical experience in a mine was not statutory prior to this Act, although the various examining boards usually enforce regulations to the same effect. The qualifications required by applicants for certificates are referred to under the next section.

Board for appointing examiners.—The constitution of this board is the same as under the former Act (Coal Mines Regulation Act, 1872, § 27), with the exception that the three miners' representatives may now be chosen from amongst persons formerly employed in or about a mine, and need not be actual working miners. There is a separate board for each inspector's district. These districts, with their various secretaries, will be found in the Appendix.

Proceedings
and powers of
board for
appointing
examiners.

24. (1.) The proceedings of each board shall be in accordance with the rules contained in schedule one to this Act.

(2.) Each board shall from time to time appoint examiners, not being members of the board, except with the consent of the Secretary of State, to conduct the examinations in the part of the United Kingdom for which the board acts, of applicants for certificates of competency under this Act, and may from time to time make alter and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in that part of the United Kingdom, and that the examination and qualifications of applicants for second class certificates shall be suitable for practical working miners.

(3.) Each board shall make from time to time to a

Secretary of State a report of their proceedings, and of such other matters as a Secretary of State may from time to time require.

§ 24.

Examinations for certificates.—Each board has its own regulations for the conduct of examinations and the qualifications of the applicants. The qualifications required, and the subjects of examination in any particular district, should in every case be ascertained by application to the secretary to the board of examiners for that district. A list of secretaries of the various districts will be found in the Appendix.

Qualifications of candidates for first-class certificates.—As an indication of the usual subjects of examination, it may be here stated that candidates for a first-class certificate generally require to have a knowledge of:—

- (1.) Arithmetic, including the calculation of areas and velocities.
- (2.) Surveying and drawing.
- (3.) Ventilation, gases met with in the mine, use and types of safety lamps, and coal dust as an explosive agent.
- (4.) Modes of working coal and other minerals as affected by the nature of the roofs, &c., sinking, fitting and pumping, winding and haulage, setting off workings of new mine, timbering of shafts and workings, and mine working generally.
- (5.) Mechanics; and
- (6.) The provisions of this Act.

In certain districts reading and writing, also geology (especially of the mining district of the board before which the applicant appears) form additional subjects of examination.

The questions on ventilation and mechanics are of a theoretical as well as of a practical nature. Candidates should direct their attention to the following text books:—

- Atkinson's "Gases met with in Coal Mines, and General Principles of Ventilation," published by Longmans.
- Templeton's "Engineers' Common-place Book of Practical Reference," published by Simpkins & Marshall.
- Fairley's "Colliery Managers' Calculator," published by Hutchings (*Colliery Guardian* Office); and
- Tate's "Chemistry relating to Mine Ventilation," published by A. Megson, Leeds.

§ 24

A few specimen examinations paper will be found in the Appendix

Qualifications of candidates for a certificate

As in indicating the subjects of examination in a second class certificate, it may be stated that candidates generally require to have a knowledge of—

- (1) Gases as found in the mine, and the use of safety lamps
- (2) Practical knowledge of machinery as applied to colliery purposes
- (3) Sinking, pits, surface and underground management, practical ventilation, timbering, and shot firing
- (4) The provisions of this Act

Candidates shall be careful to obtain the necessary information as to the qualifications and subjects of examination from the secretary of the board for the district. The names and addresses of the secretaries to the various boards, and other particulars as to examinations are given in the Appendix

Practical experience of applicant for certificate—Every applicant whether for a first or second class certificate must have had at least five years practical experience in a mine,

§ 23 Evidence of experience and ability, and of the sobriety and general good conduct of the applicant, along with an authorisation from the Secretary of State to appear for examination, is required to be produced to the examiners by an applicant before his examination can be proceeded with. The form of application to the Secretary of State for an authorisation to appear for examination will be found in the Appendix

Rules by
Secretary
State for
examinations

25. A Secretary of State may from time to time make alter and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act the number and remuneration of the examiners, and the fee to be paid by the applicants, so that the fees do not exceed those specified in schedule two to this Act. Every such rule shall be observed by every board appointed under this Act to which it applies.

If the Secretary of State shall find that any
 person who is duly appointed to any office or
 position in the State has failed to perform his
 duties, he may remove him from office.
 If the Secretary of State shall find that any
 person who is duly appointed to any office or
 position in the State has failed to perform his
 duties, he may remove him from office.

26. (1) A Secretary of State shall have the right to
 appoint and remove any person who is duly appointed
 to any office or position in the State. He shall
 have the right to remove any person who is duly
 appointed to any office or position in the State
 if he finds that he has failed to perform his
 duties. He shall have the right to remove any
 person who is duly appointed to any office or
 position in the State if he finds that he has
 failed to perform his duties.

(2) A Secretary of State shall have the right to
 appoint and remove any person who is duly
 appointed to any office or position in the State.

If the Secretary of State shall find that any
 person who is duly appointed to any office or
 position in the State has failed to perform his
 duties, he may remove him from office.
 If the Secretary of State shall find that any
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 position in the State has failed to perform his
 duties, he may remove him from office.

27. If the Secretary of State shall find that
 any person who is duly appointed to any office or
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 he may remove him from office. If the Secretary
 of State shall find that any person who is
 duly appointed to any office or position in the
 State has failed to perform his duties, he may
 remove him from office.

§ 27. and with respect to every such inquiry the following provisions shall have effect :

- (1.) The inquiry shall be public, and shall be held at such place as the Secretary of State may appoint by such county court judge, metropolitan police magistrate, stipendiary magistrate, or other person or persons, as may be directed by the Secretary of State, and either alone or with the assistance of any assessor or assessors named by the Secretary of State :
- (2.) The Secretary of State shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted :
- (3.) Some person appointed by the Secretary of State shall undertake the management of the case :
- (4.) The manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case :
- (5.) The person or persons appointed to hold the inquiry, in this Act referred to as the court, shall, on the conclusion of the inquiry, send to the Secretary of State a report containing a full statement of the case, and the opinion of the court thereon, and such report of, or extracts from the evidence, as the court may think fit :
- (6.) The court shall have power to cancel or suspend the certificate of the manager or under-manager, if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of an offence against this Act, unfit to discharge his duty :

- (7.) The court may, if it thinks fit, require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails, without sufficient cause to the satisfaction of the court, to comply with such requisition, he shall be liable to a fine not exceeding one hundred pounds. The court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore cancel or suspend the certificate according to its judgment on the case :
- (8.) The court shall have for the purpose of the inquiry, all the powers of a court of summary jurisdiction, and all the powers of an inspector under this Act :
- (9.) The court may also, by summons signed by the court, require the attendance of all such persons as it thinks fit to summon and examine for the purpose of the inquiry ; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who, on request signed by the court, shall ascertain and certify the proper amount of such expenses.

The whole provisions of this section are made applicable to the under-manager as well as the manager.

County court judge, police magistrate, stipendiary magistrate, recorder, or registrar of a county court, means, in Scotland, the sheriff or sheriff-substitute, § 76.

As to a court of summary jurisdiction in England, see § 61, and notes thereto. The constitution and powers of a court of

§ 27.

summary jurisdiction in Scotland are given in § 67. See § 77 as to Ireland.

“Attending on subpoena before a court of record” means in Scotland, attending on citation the Court of Justiciary, § 76.

In Scotland, the auditor of the Sheriff-Court of the county, or district of a county in which any inquiry takes place, is to perform the duties of a master of one of the superior courts under this Act, § 76.

Costs and
expenses of
inquiry.

28. (1.) The court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a fine imposed by that court.

(2.) The Secretary of State may, if he thinks fit, pay to the person or persons constituting the court, including any assessors, such remuneration as he may with the consent of the Treasury appoint.

(3.) Any costs and expenses ordered by the court to be paid by a Secretary of State, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

The constitution and powers of a court of summary jurisdiction in Scotland are given in § 67. See § 61 as to England, and § 77 as to Ireland.

Record of
cancellation
of certificate
restoration in
certain cases

29. (1.) Where a certificate of a manager or under-manager is cancelled or suspended in pursuance of this Act, a Secretary of State shall cause the cancellation or suspension to be recorded in the register of holders of certificates.

(2.) A Secretary of State may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has

been cancelled or suspended in pursuance of the Act, **29.** and cause the renewal or restoration to be recorded in the register aforesaid.

The nature of the certificate referred to in section 26, 32 was not put in question.

30. Whenever any person proves to the satisfaction of a Secretary of State that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, the Secretary of State shall, on payment of such fee, if any, as he may direct, but not exceeding the fee specified in schedule two to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate.

The fee for such copy certificate is:—

First-class certificate, 5s.

Second-class certificate, 2s. 6d.

31. (1.) All expenses incurred by a Secretary of State with the concurrence of the Treasury in carrying into effect the provisions of this Act with respect to certificates of competency shall be defrayed out of moneys provided by Parliament.

(2.) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct, and be carried to the Consolidated Fund.

§ 32.

Penalty for
forgery of, or
false declara-
tion as to,
certificate

32. Every person who commits any of the following offences; that is to say,

- (1.) Forges, or counterfeits, or knowingly makes any false statement in any certificate of competency under this Act, or in any certificate of service granted under this Act or any Act repealed by this Act, or any official copy of any such certificate; or
- (2.) Knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or
- (3.) For the purpose of obtaining, for himself or any other person, employment as a certificated manager or under-manager, or the grant renewal or restoration of any certificate under this Act, or a copy thereof, either
 - (a) Makes or gives any declaration representation statement or evidence which is false in any particular, or
 - (b) Knowingly utters, produces, or makes use of any such declaration representation statement or evidence, or any document containing the same,

shall be guilty of a misdemeanour, and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

This is the only offence in the Act declared to be a misdemeanour. "Misdemeanour" in Scotland means "crime and offence," § 76.

Returns, Plan, Notices, and Abandonment.

Returns by
owner, agent
or manager
of mine.

33. (1.) On or before the twenty-first day of January in every year the owner agent or manager of

every mine shall send to the inspector of the district on behalf of a Secretary of State a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in schedule three to this Act, or in such other form as may from time to time be prescribed in lieu of that form by a Secretary of State: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B of the said form unless or until a Secretary of State otherwise prescribes.

(2.) Forms for the purpose of the returns required by this section shall from time to time, on application, be furnished by the inspector of the district on behalf of the Secretary of State.

(3.) The Secretary of State may publish the aggregate results of the returns made under this section with respect to any particular county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought, but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector or Secretary of State or any body of commissioners incorporated by Act of Parliament for the drainage of mines, and authorised to assess and levy rates in respect of minerals gotten from such mines, shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

of the strata, together with a section of the drift sunk through, or if that be not reasonably practicable a statement of the depth of the shaft with a section of the seam.

(2) The owner, agent or manager of the mine shall on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section, and shall also on the like request mark on such plan and section the then state of the workings of the mine, and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

(3) If the owner, agent or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid or wilfully withholds any portion thereof, or wilfully refuses on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment, imperfection or inaccuracy) be guilty of an offence against this Act, and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner, agent or manager to cause an accurate plan and section, showing the particulars herein-before required to be made within a reasonable time at the expense of the owner of the mine. Every such plan must be on a scale of not less than that of the Ordnance Survey of twenty-five inches to the mile or on the same scale as the plan for the time being in use at the mine.

§ 34.
—

(4.) If the owner agent or manager fails within twenty days after the requisition of the inspector, or within such further time as may be allowed by a Secretary of State, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act.

Survey.—A survey will in future require to be taken and the workings recorded on the plan every three months. This is an important alteration on the former statute (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76, § 17), which only required the plan to show the workings up to six months previously.

Plan.—The term “plan” includes a correct copy or tracing of any original plan, § 75. It will be observed that several new particulars are now required to be shown on the plan. The plan must now show —

(1) The workings up to a date not more than *three* months previously; and

(2) *The general direction and rate of dip of the strata, together with a section of the strata sunk through or, if this be not reasonably practicable—*

A statement of the depth of the shaft, with a section of the seam.

See § 38 as to the provisions with reference to plans of abandoned mines, or seams of mines; and notes to § 49 in reference to the meaning of the words “reasonably practicable.”

The inspector was not previously at liberty to copy the plan or section, even for official purposes. The scale of such plan was formerly two chains to the inch. The alteration does not affect plans at present in use at the mine.

As to penalties for offences against the Act, see § 59.

Notice to be
given of
accidents in
mines

35. (1.) Where in or about any mine, whether above or below ground, either—

(i.) Loss of life or any personal injury whatever to any person employed in or about the mine occurs

by reason of any explosion of gas, or of any explosive, or of any steam boiler: or

25
—

- (ii.) Loss of life or any serious personal injury to any person employed in or about the mine *arises* by reason of any accident whatever,

the owner agent or manager of the mine shall, within twenty-four hours next after the explosion or accident send notice in writing of the explosion or accident and of the loss of life or personal injury occasioned thereby to the inspector of the district on behalf of a Secretary of State, and shall specify in the notice the character of the explosion or accident and the number of persons killed or injured respectively.

(2.) Where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident, until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine.

(3.) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district on behalf of a Secretary of State within twenty-four hours after such death comes to the knowledge of the owner agent or manager.

(4.) Every owner agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act.

§ 35.
—

Notices.—The word “explosive” is substituted for “powder” under the former Act (Coal Mines Regulation Act, 1872, § 39).

“The notice of all fatal accidents and also of all such non-fatal accidents as have arisen from explosions, may be sent by telegram, if a telegraph office is near. The telegram, in such cases, will constitute a notice in writing within the terms of the Act, and the cost thereof, not exceeding one shilling in each case, will be refunded by the inspector. Such telegram, however, is not to be taken to supersede a letter where details have to be given, or where drawings should accompany the notice. For notifying all non-fatal accidents arising from causes other than explosions, and deaths resulting from accidents already reported, the use of the telegraph will not be necessary, but the statutory notice should be given by letter.” *Per Home Secretary's instructions.* These instructions were issued under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), but they are still applicable,—see § 79 of the present Act.

A form of notice of explosion or accident will be found in the Appendix.

In Scotland notices of explosions and accidents are deemed to be sent to the inspector of the district on behalf of the Lord Advocate, § 76.

Place of explosion or accident.—The provisions of subsection (2) are new. If the notice be served by post, the three days will commence to run from the time when the letter containing such notice would be delivered in the ordinary course of post, see § 73. The time during which a place where an explosion or accident has occurred must be left unaltered will therefore vary in the different districts, according to the proximity of the inspector and the postal facilities, &c. It will be observed, however, that it is not necessary to await the visit of an inspector, or the expiry of the specified interval:—

- (1.) If doing so would tend to increase or continue a danger; or,
- (2.) If it would impede the working of the mine.

As to penalties for offences against the Act, see § 59.

- 36.** In any of the following cases, namely, **§ 36.**
- (i.) Where any working is commenced for the purpose of opening a new shaft for or a seam of any mine ; Notice to be given of opening and abandonment of mine.
 - (ii.) Where a shaft or seam of any mine is abandoned or the working thereof discontinued ;
 - (iii.) Where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months ; or
 - (iv.) Where any change occurs in the name of any mine or in the name of the owner agent or manager of any mine to which this Act applies, or in the principal officers of any incorporated company which is the owner of a mine ;

the owner agent or manager of the mine shall give notice thereof to the inspector of the district within two months after the commencement abandonment discontinuance recommencement or change, and if such notice is not given the owner agent or manager shall be guilty of an offence against this Act.

Notice of opening and abandonment of mines, &c.—The provisions as to notice now apply to a seam as well as to a shaft. This important alteration should be kept carefully in view.

In addition to the notice of abandonment required by this section, in the case of a mine or seam absolutely abandoned, the owner thereof, at the time of the abandonment, is required within three months after such abandonment to send to the Secretary of State the plan or section, and to the district inspector the return, both required under § 38.

The principal officers of an incorporated company referred to in this section are the secretary and the managing director (if any), or the manager (if any). An order to this effect was made under the Coal Mines Regulation Act, 1872 (35 &

§ 36.

36 Vict. c. 76). See § 79 as to the continuing effect of such orders.

Forms of the various notices required by this section will be found in the Appendix. The forms are unofficial and optional.

Fencing in
case of
abandoned
mine.

37. (1.) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine, shall cause the top of every shaft and every side entrance from the surface to be and to be kept securely fenced for the prevention of accidents :

Provided that—

- (i.) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect :
- (ii.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.
- (2.) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act.
- (3.) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.
- (4.) If any occupier of land or other person wilfully

obstructs the owner of a mine or other person interested as aforesaid in doing any such acts, he shall be guilty of an offence against this Act.

§ 37.

(5.) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or uninclosed land, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875.

38 & 39 Vict.
c. 55.

Retrospective application of this section.—The provisions of this section will apparently apply to a mine abandoned, or the working thereof discontinued at any time before or after the commencement of this Act (1st January, 1888). It was so decided in reference to the former Act (Coal Mines Regulation Act, 1872, § 41). where this provision was in similar terms; see *Stott v. Dickinson*, 34 L. T. 291.

Liability of owner for fencing.—With reference to the question of who is liable as "owner" or as a "person interested in the minerals of the mine," for fencing an abandoned mine, the following decisions under the same wording and provision of the Metalliferous Mines Regulation Act, 1872, 35 & 36 Vict. c. 77, § 13, are in point. In *Arkwright v. Evans*, 49 L. J., M. C. 82, where the holder of a lease from the Duchy of Lancaster, under which he was bound to pay all he might receive in respect of the mine, with five shillings additional, and had no pecuniary interest in the mine or minerals thereof, it was *held* that the lessee was neither owner of the mine nor a person interested in its minerals within the meaning of that section, and therefore not liable on the mine being abandoned, to cause the top of its shaft to be fenced as required by that section. In *Evans v. Lady Mostyn*, 36 L. T. 856, where the owners in fee granted a lease of minerals for a period of years under reservation of a royalty, payable to themselves on the minerals produced, and with reserved powers for securing payment of such royalty, it was *held* that such owners were during the existence of the lease persons interested in the minerals thereof within the section referred to, and therefore liable, on the mine becoming

37.

abandoned, to cause its shafts to be fenced. See also § 75.

The provisions of sub-sections (3) (4) are new.

Public Health Acts.—The Public Health Act, 1875, § 8 & 39 Vict. c. 55, only applies to England.

The corresponding Acts are :—

In Scotland, the “Public Health (Scotland) Act, 1867,” 30 & 31 Vict. c. 101, § 16.

In Ireland, the “Public Health (Ireland) Act, 1878,” 40 & 41 Vict. c. 52, § 107.

Duty of inspector of mines under this section.—“Under this provision the sole duty of the inspector of mines is to report the nuisance to the local sanitary authority. It will thereupon become obligatory on the sanitary authority to take steps for compelling the fencing of the shaft by the persons who are liable, or, if such persons cannot be found, to cause the shafts to be fenced at the expense of the rates.”

“Normally the local sanitary authority is, within the area of a borough, the town council; outside that area, and within a local government district, the local board, and elsewhere, the board of guardians. But in case of difficulty the inspector should apply to the Home Office for instructions.”—*Per Secretary of State's Instructions to Inspectors.* These instructions were issued under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), but they are still applicable; see § 79 of the present Act.

It may be noted that, in Scotland, the local sanitary authority is :—

The town council, in places within their jurisdiction, and not subject to the jurisdiction of police commissioners or trustees;

The police commissioners or trustees in places within their jurisdiction; and

The parochial board, in any parish, or part thereof, not subject to the jurisdiction of the town council, police commissioners, or trustees.

Plan of
abandoned
mine or seam

38. (1.) Where any mine or seam is abandoned, the owner of the mine or seam at the time of its

abandonment shall, within three months after the abandonment, send to a Secretary of State an accurate plan, showing the boundaries of the workings of the mine or seam up to the time of the abandonment, and the position of the workings with regard to the surfaces, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft, with a section of the seam. Every such plan must be on a scale of not less than that of the ordnance survey of twenty-five inches to the mile, or on the same scale as the plan used at the mine at the time of its abandonment.

§ 38.

to be sent to
Secretary of
State.

(2.) The plan and section shall be preserved under the care of the Secretary of State; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine or seam, to see the plan when so sent until after the expiration of ten years from the time of the abandonment.

(3.) The owner aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of a Secretary of State, a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

(4.) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence

§ 32. agrees this Act, and be liable to a fine not exceeding thirty pounds

(5) A complaint or information of an offence under this section may be made or laid at any time within six months after abatement of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens

Illustration—The following is an example of a return, as well as a plan. Several particulars are previously required, and now to be shown on the plan or section. It will be observed that while it is not personally practicable to show the particulars required by the plan, it is now sufficient to give a statement of the length of the shift with a section of the seam. See notes to the 1905 Act, the meaning of words "reasonably practicable."

The plan or section and a return are in addition to and do not supersede, the notice of abatement required by § 36, Sec. 33 and 36, and relative notes.

Provided that this Act shall impose a penalty payable for the offence included in this section of £20, and the time for laying such complaint or information was three months.

Inspection

Appointment of inspectors of mines

30. (1) A Secretary of State may from time to time appoint any fit persons to be inspectors (under whatever title he may from time to time fix) of mines, and assign them their duties and may award them such salaries as the Treasury may approve, and may remove any such inspector. Provided always that in the appointment of inspectors of mines in Wales and Monmouthshire among candidates, otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred.

(2) Notice of the appointment of every such inspector shall be published in the London Gazette.

40

not to be an inspector of mines under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge

Persons not qualified to act as inspectors—The disqualification of persons to act as inspectors has been extended by this Act to any person who is a mine owner or mine's agent. The prohibition against an inspector being a partner or having an interest in a mine in the district under his charge is new, and will apply to his being a shareholder in a private or public company holding such a mine.

1 of
inspectors

41 An inspector under this Act shall have power to do all or any of the following things, namely,

- (i) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine
- (ii) To enter, inspect and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine
- (iii) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine
- (iv) To exercise such other powers as may be necessary for carrying this Act into effect

[illegible][illegible]

42. (1) If in any particular case the person or persons in charge of the management, or director or directors, of the corporation be dangerous or defective, so that the directors may give notice in writing to the person or persons in charge of the management, or director or directors, of the corporation, that the person or persons in charge of the management, or director or directors, of the corporation are dangerous or defective, and unless the same be remedied and unless the sum of \$100,000 shall also be paid to the corporation, the corporation shall also pay the sum to the person or persons in charge of the management, or director or directors, of the corporation.

(7) If the owner agent or his authorized agent objects to remedy the matter himself, he must, upon notice he may, within ten days after receipt of the notice, send his objection in writing stating the grounds thereof, to a Secretary of State and the re-

§ 42.

upon the matter shall be determined by arbitration in manner provided by this Act; and the date of the receipt of the objection shall be deemed to be the date of the reference.

(3.) If the owner agent or manager fail, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act, and the notice and award shall respectively be deemed to be written notice of the offence.

Provided that the court, if satisfied that the owner agent or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4.) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

Grounds for interference of inspector.—Danger or defect in or connected with the control, management, or direction of the mine by the manager was not previously specified as a ground for interference on the part of the inspector.

Remedy of matter of complaint.—The time within which the owner, agent, or manager may object to remedy a matter of complaint, has been restricted to ten days (instead of twenty, as formerly, under the Coal Mines Regulation Act, 1872, § 46) from the date of receipt of the inspector's notice.

§ 42.

A form of notice objecting to remedy a matter of complaint will be found in the Appendix. Where objections are not taken under sub-section (2), the time within which a matter of complaint must be remedied is twenty days from the date of receipt of the inspector's notice of complaint, unless the matter cannot be remedied with reasonable diligence within that time. It was held that the corresponding section (46) of the Act of 1872 had no application to a case where the danger was such as the owner was unable to remedy—*e.g.*, where it arose from an accumulation of water in an adjoining mine, upon which he had no power to enter; *Reg. v. Spon Lane Colliery Co.*, 3 Q. B. D. 673, and the present enactment does not seem to affect this decision. The remedy of the men in such a case is under § 49, r. 7; but under that section the inspector has no authority to interfere.

Arbitration.—The provisions of the Act with reference to arbitration are contained in § 47. As to penalties for offences against the Act, see § 59.

43. Every inspector of a district under this Act shall make an annual report of his proceedings during the preceding year to a Secretary of State, which report shall be laid before both Houses of Parliament.

Annual
reports of
inspectors.

Inspectors' reports.—The inspector's report is to be sent in not later than 31st March.—*Per Secretary of State's instructions to inspectors.* These instructions were issued under the Coal Mines Regulation Act, 1872, but for their continuing effect, see § 79 of this Act.

In future it is only the inspector of a district (and not every inspector as formerly) who is required to make an annual return.

44. Where in any mine an explosion or accident has caused loss of life or personal injury to any person, a Secretary of State may at any time direct an inspector to make a special report with respect to the explosion or accident.

Special
reports of
inspectors.

The Secretary of State may cause any such report to be made public; see § 46.

§ 45.

Formal
investigation
when directed
by Secretary
of State.

45. Where it appears to a Secretary of State that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect :

- (1.) The Secretary of State may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.
- (2.) The person or persons so appointed (hereinafter called the court) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the court to make the report in this section mentioned.
- (3.) The court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers ; namely,
 - (a.) Power to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purpose :
 - (b.) Power, by summons signed by the court, to require the attendance of all such persons as it thinks fit to call before it and

- examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make :
- (c.) Power to require the production of all books papers and documents which it considers important for the said purpose :
 - (d.) Power to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination :
- (4.) Persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of record ; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of Her Majesty's superior courts, who on request, signed by the court, shall ascertain and certify the proper amount of the expenses.
- (5.) The court holding an investigation under this section shall make a report to the Secretary of State, stating the causes of the explosion or accident and its circumstances, and adding any observations which the court thinks right to make :
- (6.) All expenses incurred in and about an investigation under this section (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act.
- (7.) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after

§ 45.

having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

The investigation must now be held in open court. Previously the Secretary of State could direct otherwise.

As to a court of summary jurisdiction in England, see § 61. The constitution and powers of a court of summary jurisdiction in Scotland will be found in § 67. See § 77 as to Ireland.

In Scotland the auditor of the Sheriff Court of the county or district of a county in which any inquiry takes place, is to perform the duties of a master of one of Her Majesty's superior courts, s 76.

Publication of
reports.

46. The Secretary of State may cause any special report of an inspector or any report of a court under this part of this Act to be made public at such time and in such manner as he may think fit.

With the exception of the alterations referred to in the notes to the preceding section, this section and § 45 are a reproduction of § 3 of the Coal Mines Act, 1886, repealed by this Act.

Arbitration.

Provisions
as to arbitra-
tions

47. With respect to arbitrations under this Act, the following provisions shall have effect:

(1.) The parties to the arbitration are in this section deemed to be the owner agent or manager

of the mine on the one hand, and the proprietors of mines (on behalf of the Society of Mines) on the other: § 47.

- (2) Each of the parties to the arbitration, within fourteen days after the receipt of the notice, shall appoint an arbitrator:
- (3) No person shall act as arbitrator under this Act, who is employed in or connected with the management of or is interested in the mine to which the arbitration relates:
- (4) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of that party:
- (5) The death removal or other change in any of the parties to the arbitration shall not affect the proceedings under this section:
- (6) If within the said fourteen days either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in dispute, and in that case the award of the single arbitrator shall be final:
- (7) If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place: and if he fails to do so within seven days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and

§ 47.

determine the matter in difference, and in that case the award of the single arbitrator shall be final :

- (8.) In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred :
- (9.) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned :
- (10.) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ :
- (11.) If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognisance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place :
- (12.) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire may be appointed by the

chairman of the general or quarter sessions of the peace, within the jurisdiction of which the mine or any shaft of the mine is situate : § 47.

- (13.) The decision of every umpire on the matters referred to him shall be final :
- (14.) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place :
- (15.) Arrangements shall whenever practicable be made for the matter in difference being heard at the same time before the arbitrators and the umpire :
- (16.) The arbitrators and the umpire or any of them may examine the parties and their witnesses on oath, and may also consult any counsel engineer or scientific person whom they may think it expedient to consult :
- (17.) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties or one of them according as the award may direct. Such costs may be taxed by a master of one of Her Majesty's superior courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable by the owner agent or manager may in the event of non-payment be recovered in the same manner as fines under this Act :

§ 47.
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(18.) Every person who is appointed an arbitrator under this section shall be a practical mining engineer, or a person accustomed to the working of mines, and every person who is appointed an umpire under this section shall be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court, but when an award has been made under this section the arbitrator or umpire who made it shall be deemed to have been duly qualified as provided by this section.

Procedure in arbitrations.—The procedure in arbitrations has been considerably accelerated by this Act. Under the previous Act (Coal Mines Regulation Act, 1872, § 49) the arbitrators could be appointed within twenty-one days from the date of reference, and a longer period was also granted for the appointment of a second umpire where the first had failed to make his award. A form of notice of the appointment of an arbitrator will be found in the Appendix.

Appointment of umpire.—The provision in sub-section (10) is new, and will practically render the appointment of an umpire necessary in every arbitration under the Act. There was previously no restriction on the choice of an umpire. A sheriff or sheriff-substitute will be alone eligible for such appointment in Scotland, § 76.

Questions to be referred to arbitration.—The questions in dispute which fall to be determined by arbitration under this section are:—

- (1.) Division of mine into parts, § 19.
- (2.) Objections to remedy matters of complaint by inspector under § 42.
- (3.) Objections to amendment of special rules, § 53.

Coroners.

Provisions as
to coroners'
inquests on

48. With respect to coroners' inquests on the bodies of persons whose death may have been caused

by explosions or accidents or otherwise by 48.
following provisions: If by accident

(1.) When a coroner receives a report of the death of any person whose body has been exposed by any explosion or accident, he shall, if required by the Act to be given to the coroner of the district, the coroner shall cause the inquest unless, an inspector, or some person on behalf of a Secretary of State, is present to watch the proceedings.

(2.) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest.

(3.) The coroner, before the adjournment, may take evidence to identify the body, and may order the internment thereof:

(4.) If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

(5.) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner:

(6.) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or

§ 48.

accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect :

(7.) Any person having a personal interest in or employed in or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury empannelled on the inquest ; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury :

(8.) Any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held and the owner agent or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject nevertheless to the order of the coroner :

Every person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Notices by coroner.—Neglect to send the notices required by this section would render the coroner subject to a penalty under the Act ; but he is not liable to prosecution without the written consent of the Secretary of State, § 65.

If the notice required by sub-section (4) be served by post, the twenty-four hours will commence to run from the time

1. The first part of the document is a list of names and addresses of the members of the committee.

2.

3.

4.

5.

6.

when the letter containing such notice would be delivered in the ordinary course of post, § 73.

§ 48.

- *Attendance at inquest.*—Prior to the passing of the Coal Mines Act, 1886, there was no provision for the attendance of relatives or colliery officials at the inquest. By that Act any relative was permitted to attend personally or by agent, and to examine witnesses subject to the order of the coroner. The same powers are now extended to the owner, agent, or manager, and to any person appointed in writing by the majority of workmen in the mine. The parties may also be represented by counsel.

As to penalties for offences against the Act, see § 59.

PART II.

RULES.

General Rules.

49. The following general rules shall be observed, so far as is reasonably practicable, in every mine :

General rules:

“Reasonably practicable.”—The words “reasonably practicable” apply to all the rules, and should be read with each. The insertion of these words, here, as in other parts of the Act, are evidently intended to prevent liabilities and penalties being incurred under the Act where the observation of any particular provision has been made impossible through some inevitable circumstance, such as the act of God. In the case of *Wales v. Thomas*, 16 Q.B.D. 340, it was decided that the expression “reasonably practicable,” only applied to cases in which physical or engineering difficulties prevented the rules being carried out, but not to difficulty of working the mine as a profitable concern.

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine, and the travelling roads to and

Ventilation of mine.

49. from those working places shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Ventilation—Such ventilation is not to be suspended during the period of cessation, as, for example, at night or on Sunday, and other proper days of rest, for during all these times the mine is to be considered as continuing at work. See *Knott's v. Dickinson*, 29 L.J., M.C. 135; 6 Jur. N.S., 678; 5 W.R. 411, 2 Ll. & Ll. 705.

The rule is not confined to the ventilation of the working places and travelling roads, but requires that so much of the mine must be kept ventilated as to render the working places and travelling roads safe. See *Brough v. Homfray*, 37 L.J., M.C. 177.

Where a mine is improperly ventilated, the manager is liable to employ the resources at his disposal for the improvement of the ventilation; and failure to do so will render him liable to be convicted of an offence under the Act. See *Holly v. Howard*, 19 L.J., M.C. 17; 41 L.T. 797.

The agent as well as the manager is liable to be convicted of an offence against the Act in not complying with this rule, and it is no defence that he has enforced the rules to the best of his power. See *Wynne v. Forrester*, 5 C.P.D. 361; 18 L.J., M.C. 190; 10 L.T. 521.

The provisions already given under the former statutes, which were quite applicable to the present Act. See also *regulations*.

Measurement of air—The provision as to measuring the quantity of air is new. A competent person should be appointed for discharging this duty, and a report book provided for the purpose. A form which it is thought may be used will be found in the Appendix.

Rule 2. Where a fire is used for ventilation in any mine newly opened after the passing of this Act, the

return air, unless it be so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift, or air-way. 49

This new rule is prospective and applies to mines opened before the 1st of September, 1887.)

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the commencement of this Act, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion.

This is a new rule. It has only reference to such mechanical contrivances for ventilation as are introduced into the mine after the commencement of the Act (1st January, 1888), and does not apply to those previously introduced.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect: Section 4, Act of 1887, as amended by Act of 1888, and by Act of 1890.

(i.) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner agent or manager for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

No workmen shall pass beyond any such station until the part of the mine beyond that station has

§ 49. been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift.

(ii.) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Inspection before commencing work.—The disqualification of contractors from being appointed as the competent person to make this inspection was not specified prior to this Act. It will be observed that the inspection is to take place within such time immediately before the commencement of each shift, as shall be appointed by the special rules. The time may, therefore, differ, according to the exigencies of different

mines. It is important to observe that the particulars with reference to (1) the presence of gas, (2) the condition of the roof and sides, (3) the general safety, are to be ascertained, as well as (4) the condition of the ventilation, which was alone required to be reported on prior to this Act.

Inflammable Gas.—Does “inflammable gas” mean simply gas which will inflame, or is it to be deemed present when an amount of carburetted hydrogen, the smallest that can be discovered, is found to be contained in the atmosphere? Until this question is settled it will be in the interests of employer and workmen that inflammable gas should be reported present when the blue cap is shown on the flame of the lamp, which indicates the presence of about two per cent. of gas. If inflammable gas has been found in the mine during the preceding twelve months, the manager should be careful to furnish the person appointed to make this inspection with such information, and to see that a locked safety lamp is used.

Report.—Care must be taken to note the additional particulars now required to be specified in the report of this inspection. The report must be in the handwriting of the person who made the inspection, except in so far as it may be printed or lithographed,—see g. r. 37. It is not stated whether the report of this inspection is to be recorded where none of the dangers referred to are found or observed, but from analogy with the provisions as to inspection during shifts, it ought apparently to be so recorded. A form of report will be found in the Appendix.

Inspection during shifts.—The provision for inspection during shifts was not contained in any of the Acts repealed by this Act, although such an inspection was generally enforced by the special rules. The particulars required to be ascertained by this inspection, and (where necessary) to be recorded, are the same as under the inspection before commencing work. As this inspection is to be *similar* to the inspection before commencing work, the inference is that the provision with reference to the use of a locked safety lamp also applies to this inspection. See form of report in Appendix.

In the case of *Shiels v. Dunn's Trs.*, 3 Scot. L. Rev. 114 (a Sheriff Court case), it was held that the employers, who had a dispute with their men, and did not have the pit inspected, so that the men could not get down for their tools, were liable in damages to the workmen.

§ 49. Rule 5. A competent person or competent persons appointed by the owner agent or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Inspection of
machinery,
&c., above and
below ground.

Prior to this Act the state of the guides and conductors in the shafts only required to be examined weekly. A form of report will be found in the Appendix.

The expression "similar appliances" has been substituted for "works" in the previous statute (Coal Mines Regulation Act, 1872, § 51, general rule 29), with the view of simplifying the meaning intended.

Fencing of
entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension, shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

The entrance to any place not in actual use requires now to be fenced in terms of this section as well as the entrance to any place not in actual course of working and extension.

The word "inadvertently" is usually interpreted to mean "innocently." See *Simpson v. Moore*, 9th Nov. 1874, 3 Coup. 26; and *Hogg v. Waddie & Sons*, 23rd Oct. 1886, 24 Scot. L. Rep. 14.

Withdrawal
of workmen
in case of
danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part

§ 49.

thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be re-admitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

The expression "inflammable gases" has been substituted for "noxious gases" in the previous Act (Coal Mines Regulation Act, 1872, § 51, general rule 6).

The report referred to in this rule must be in the handwriting of the person who made the inspection, except in so far as it may be printed or lithographed. See general rule 37. A form of report will be found in the Appendix. This rule leaves the question of danger or no danger to the discretion of the person in charge of the mine, and gives the inspector no right of interference; *Reg. v. Spon Lane Colliery Co.*, 3 Q.B.D. 673.

Rule 8. No lamp or light other than a locked safety lamp shall be allowed or used—

Use of safety
lamps in
certain places.

- (a) In any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or

§ 49.

(b) In any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return air-way.

The provisions contained in sub-section (a) of this rule, and the prohibition against working coal with naked lights in the circumstances set forth in the last paragraph, are new.

For the meaning of a "ventilating district" see rule 12, sub-heads (k) and (l).

Construction
of safety
lamps.

Rule 9. Wherever safety lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable.

Safety lamps.—This important rule is new, and should receive immediate attention. It has been found by experiment that many of the safety lamps hitherto in use are not safe when meeting rapid currents of gaseous air, such as are frequently produced by the ventilation of the mine. Where the safety lamps at present in use do not stand this test, care must be taken to have these replaced by properly constructed lamps, prior to the commencement of the Act (1st January, 1888).

In the report of the royal commissioners on accidents in mines the principal condition laid down as essential to any safety lamp is to the following effect:—

"The source of light within the lamp should be unable, under any circumstances at all likely to occur in working coal, to cause the ignition of an inflammable mixture of fire-lamp and air, even when this is passing at a high velocity."

Rule 10. In any mine or part of a mine in which safety lamps are required by this Act or by the special rules made in pursuance of this Act to be used— § 49.
Examination
of safety
lamps.

- (i.) A competent person appointed by the owner agent or manager for the purpose, shall, either at the surface or at the appointed lamp station, examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps shall not be used until they have been so examined and found in safe working order and securely locked.
- (ii.) A safety lamp shall not be unlocked except either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions herein-after contained:
- (iii.) A person, unless he has been appointed either for the purpose of examining safety lamps or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety lamp.
- (iv.) A person shall not have in his possession any lucifer match or apparatus of any kind for striking a light, except within a completely closed chamber attached to the fuse of the shot.

Examination of lamps.—The necessity for the exclusive use of a safety lamp throughout any mine is left, as by the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76), to be determined by the special rules for each mine.

The place for examining safety lamps was not previously defined. For the position of the lamp station see rule 11.

The provision of sub-section (2) is substituted for that contained in the former rule (general rule 7 of the Coal Mines Regulation Act, 1872), prohibiting the unlocking of lamps "without due authority."

§ 49.

The provisions of sub-sections (iii.) and (iv.) have been made more stringent than in any of the former Acts.

Lamp
stations.

Rule 11. Where safety lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air.

This is a new rule, and care should be taken to see that any alteration which requires to be made in the situation of the stations is effected prior to the commencement of the Act (1st January, 1888).

Use of explo-
sives below
ground

Rule 12. Any explosive substance shall only be used in the mine below ground as follows :

- (a.) It shall not be stored in the mine :
- (b.) It shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds :

Provided that on the application of the owner agent or manager of any mine, the Secretary of State may by order exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges.

- (c.) A workman shall not have in use at one time in any one place more than one of such cases or canisters :
- (d.) In the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer, nor shall coal or coal dust be used for tamping :
- (e.) No explosive shall be forcibly pressed into a hole of insufficient size, and, when a hole has been charged, the explosive shall not be unrammed, and no hole shall be bored for a charge

at a distance of less than six inches from any hole where the charge has missed fire : § 49.

(f.) In any place in which the use of a locked safety lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by or under the direction of a competent person appointed by the owner agent or manager of the mine, and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing :

(g.) If in any mine, at either of the four inspections under rule 4 recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—

(1.) Unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or

(2.) Unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas :

(h.) If the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—

§ 49.

- (1.) Unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or
- (2.) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust:
 - (i.) If such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—
 - (1.) Both the conditions mentioned in sub-head (h) have been observed; or
 - (2.) Unless such one of the conditions mentioned in sub-head (h) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine:
 - (k.) In this Act “ventilating district” means such

part of a seam as has an independent intake commencing from a main intake air course, and an independent return air-way terminating at a main return air course; and "main haulage road" means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power: § 49.

(*l.*) Where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word "seam" were substituted for the words "ventilating district":

(*m.*) So much of this rule as requires the explosive substance taken into the mine to be in cart-ridges, and so much of the provisions of sub-head (*f.*) as relates to a dry and dusty place, and the provisions (*g.*), (*h.*), (*i.*), (*k.*), and (*l.*) shall not apply to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working.

Provisions of sub-head (b).—The word "seam" is new, and "five" pounds have been substituted for four pounds in the corresponding rule of the previous Act (Coal Mines Regulation Act, 1872, § 51, general rule 8). There was no power of exemption from this provision under the previous Statute. Seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working, are exempted by sub-head (*m.*) of this clause.

Provisions of sub-head (d).—It will be observed that the prohibition against the use or possession of an iron or steel pricker, tamping-rod, or stemmer has now been made absolute, and extended to a "scraper" and "charger." The word "charger" is synonymous with "tamping rod" and "stemmer."

In some districts it is the practice to use an iron or steel

§ 49.

pricker tipped with copper. The copper, however, at the junction with the iron or steel is apt to get rough, and to have the same effect in producing premature explosions as steel or iron. It is conceived that the practice is an evasion of the rule, and that a conviction therefor would be good. See 38 J.P. 687.

The prohibition of the use of coal or coal dust for tamping is new. This material alteration should be carefully noted.

Provisions of sub-head (e).—The provisions of this subsection are new, with the exception of the prohibition against unramming a charge.

The provisions (a), (b), (c), (d), (e), apply to all mines under the Act, without reference to the presence of inflammable gas or dust, with the exception of mines exempted from provision (b).

Provisions of sub-head (f).—Provisions requiring the use of a locked safety lamp are contained in general rules 4 and 8, and may be contained in the special rules, as indicated by general rule 9. Prior to this Act the presence of dust in a mine was not provided against as a source of danger. The examination of all contiguous "accessible" places "of the same seam within a radius of 20 yards" is also new.

This provision does not apply (1) to mines which are not dry and dusty, and in which the use of a locked safety lamp is not obligatory; or (2) to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working, so far as relates to a dry and dusty place, if the use of a locked safety lamp is not obligatory in any place in such seams.

Provisions of sub-head (g).—This provision is entirely new. It will apply to mines whether dry and dusty, or not, if inflammable gas has been reported present in any ventilating district (in which a shot is to be fired) at any of the four last recorded inspections under rule 4. Where it does apply the alternative precautions specified are in addition to those required under sub-head (f). It does not apply to (1) mines which do not give off or contain inflammable gas, and which are not dry and dusty; nor (2) the seams of clay or stratified ironstone specified in sub-head (m) of this rule.

See sub-heads (k) and (l) for the interpretation of a ventilating district.

Provisions of sub-head (h).—The alternative precautions here specified are in addition to those required under sub-head

(*f*). If inflammable gas has been reported present in any ventilating district, in which a shot is to be fired, at any of the four last recorded inspections under rule 4, the provisions of sub-section (*g*) will also apply.

§ 49.

This provision does not apply to (1) mines which do not give off or contain inflammable gas, and which are not dry and dusty; nor (2) the seams of clay or stratified ironstone specified in sub-head (*m*) of this rule.

Provisions of sub-head (i).—Where the two alternative precautions specified under sub-head (*h*) have both been observed the removal of workmen is unnecessary, but where only one of such alternatives has been observed the workmen will require to be removed in terms of this provision.

The provisions here specified are additional to, and do not supersede, those contained in sub-head (*f*), or in sub-head (*g*), where inflammable gas has been reported present in the ventilating district in which such shot is to be fired, at any of the four last recorded inspections under rule 4.

The application of the various provisions of this rule to the character of the different mines will be more readily ascertained on reference to the annexed tables :

I. MINES NOT DRY AND DUSTY.

State of mine in relation to inflammable gas.	Provisions applicable
1. Mines in which use of locked safety lamp not obligatory in any place thereof.	(a), (b), (c), (d), (e). The Secretary of State may grant an exemption from provision (b).
2. Mines in which use of locked safety lamp obligatory in any place thereof. No inflammable gas reported present in any ventilating district (in which shot to be fired), at any of the four last recorded inspections under rule 4.	(a), (b), (c), (d), (e), (f). The Secretary of State may grant an exemption from provision (b).
3. Mines where presence of inflammable gas reported present in any ventilating district (in which shot to be fired) at any of the four last recorded inspections under rule 4.	(a), (b), (c), (d), (e), (f), (g), (h), (i). The Secretary of State may grant an exemption from provision (b).

§ 49.

II. DRY AND DUSTY MINES.

State of mine in relation to dust	State of mine in relation to inflammable gas whether reported present in ventilating district (in which shot to be fired) at any of the four last recorded inspections under rule 4.	Provisions applicable
1. Dry and dusty in any place in which shot to be fired, where such place is not part of a main haulage road or a place contiguous thereto.	No inflammable gas reported present	(a), (b), (c), (d), (e), (f), (h), (k), (l). The Secretary of State may grant an exemption from provision (i)
2 Same.	Inflammable gas reported present.	(a), (b), (c), (d), (e), (f), (g), (h), (k), (l). The Secretary of State may grant an exemption from provision (b).
3. Dry and dusty in any place being part of main haulage road or place contiguous thereto, showing dust attaching to the roof and sides.	No inflammable gas reported present.	(a), (b), (c), (d), (e), (f), (h), (i), (k), (l). Provision (i) sets forth the extent to which (k) is applicable. The Secretary of State may grant an exemption from provision (b).
4. Same.	Inflammable gas reported present.	(a), (b), (c), (d), (e), (f), (g), (h), (i), (k), (l). Provision (i) sets forth the extent to which (k) is applicable. The Secretary of State may grant an exemption from provision (b).

III. CLAY OR STRATIFIED IRONSTONE SEAMS.

The provisions of this rule applicable to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working are (a), (c), (d), (e), where the use of a locked safety lamp is not obligatory in any place in such seams, and (a), (c), (d), (e), (f), where the use of a locked safety lamp is so obligatory,

and that whether any part of such seams are dry and dusty or not. § 49.

Rule 12. Where a place is likely to contain a dangerous accumulation of water, the working, approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards, in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side. Water and bore holes.

The words "at any point within forty yards of that place" are new. They were not contained in the Coal Mines Regulation Act, 1872.

Rule 14. Every underground plane on which persons travel, which is self-acting or worked by an engine windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case, with sufficient man-holes for places of refuge, at intervals of not more than twenty yards, or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the tubs are moved by an endless chain or rope) at intervals of not more than ten yards. Signalling and man-holes for travelling plane's worked by machinery.

Signalling.—The words "communicating distinct and definite signals" are substituted for the word "signalling" in the former rule (Coal Mines Regulation Act, 1872, § 51, general rule 10). The provision requiring man-holes at intervals of not more than ten yards, in the circumstances specified, is new.

Man-holes.—In the case of *Wilson v. The Wishaw Coal Company*, 21st June, 1883, 20 Scot. L. Rep. 680, 10 R. 1021,

§ 49.

decided under the corresponding rule of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76, § 51), opinions were expressed that the statutory obligation is complied with if the man-holes are provided at the required distance, although on different sides of the plane.

Man-holes
for other
travelling
roads

Rule 15. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes, or with places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width, between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways into every steam engine room and boiler gallery.

The provision requiring two proper travelling ways into every steam engine house and boiler gallery is new.

See the opinion expressed in the case of *Wilson v. The Wishaw Coal Company*, cited in notes on previous rule, as to the statutory obligation for man-holes being complied with, if these are provided at the required distance, although on different sides of the plane.

Man-holes to
be kept clear.

Rule 16. Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

The prohibition against placing anything in such man-holes is now made absolute. The rule under the Coal Mines Regulation Act, 1872, § 51, only struck at any thing placed therein, "so as to prevent access thereto."

Dimensions of
travelling
roads

Rule 17. Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

This a new rule. For the dimensions of communications between shafts or outlets, see §§ 16, 17, 18. § 49.

Rule 18. The top of every shaft which for the time being is out of use, or used only as an air shaft, shall be and shall be kept securely fenced. Fencing of old shaft,

It will be noted that the top of each shaft is not only to be securely fenced, but is also to be *kept* securely fenced. The term "shaft" includes pit, § 75. As to the fencing of an abandoned mine see § 37.

Rule 19. The top and all entrances between the top and bottom, including the sump, if any, of every working ventilating or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used. Fencing of entrance to shafts

This rule now includes a ventilating shaft. The term "shaft" includes pit, § 75.

Rule 20. Where the natural strata are not safe, every working or pumping shaft shall be securely cased lined or otherwise made secure. Securing of shafts

Rule 21. The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure. Securing of roofs and sides,

There is no restriction as to the persons to be employed to secure the roof and sides, but (as was officially intimated under the Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76), the owner, agent, and manager cannot relieve themselves of the responsibility if the work be not effectually done.

Rule 22. Where the timbering of the working places Timbering.

§ 49.

is done by the workmen employed therein, suitable timber shall be provided at the working place, gate end, pass bye, siding or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall not exceed six feet or such less distance as may be ordered by the owner agent or manager.

This is a new rule. Its provisions being of the greatest importance for the prevention of accidents and the safety of workmen, care should be taken to see that it is strictly complied with. In Scotland, the term "lie" is commonly used instead of, and as synonymous with, the term "pass bye."

Option of
using down
cast shaft

Rule 23. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft.

The words "to the same seam" are new, and were not contained in the repealed Acts

Attendance
of engineman

Rule 24. In any mine which is usually entered by means of machinery, a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin, driven or worked by steam or any mechanical power, or by an animal, or by

manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith must be a competent male person not less than eighteen years of age. § 49.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts, shall for the purposes of this rule, be deemed to be the person in charge of the machinery.

Age of engineman.—The minimum age of the engineman in charge of machinery for lowering and raising persons has been raised from eighteen to twenty-two years. This does not affect a competent male person above the age of eighteen lawfully employed before the commencement of the Act (1st January, 1888) in working the machinery used for lowering and raising persons in a mine from continuing to be so employed, § 82. It will be observed that there is no change in respect to the age of enginemen working machinery for conveying persons through communications between different parts of the mine.

Absence of engineman.—It is no answer to a charge against an engineman absenting himself from his work, that he had entrusted the management of the winding engine to an unskilled pitman. See *H.M. Advocate v. Hamilton*, 10th Oct 1874, 3 Coup. 19.

Rule 25. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft. Means of signalling for working shafts.

§ 49.

Rule 26. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage, when men are being raised, shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Unless the point fixed by the special rules be within a reasonable distance from the top of the shaft, the effect of this new rule will be to render necessary the use of an automatic break or detaching hooks, as otherwise the men could not be raised to the surface within a reasonable time.

Cover over-
head

Rule 27. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district.

The words "for every tub or cage" were not in the repealed Acts.

In the case of *Frecheville v. Sonden*, 48 L.T. 612, decided under a similar provision in the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77), Sonden and other miners were working in a mine with two shafts, in one of which was a man-engine, with a proper cover, used for lowering and raising the miners, and in the other, a "skip" or open box, without a cover, for raising ores. Sonden, and certain other miners who were at the bottom of the mine, while the man-engine and skip were both at work, got into the "skip" and were raised to the surface. *Held* that they were guilty of an offence against the Act.

Chains

Rule 28 A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or tub.

Rule 29. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping. § 49.
Prevention
of rope
slipping on
drum

Rule 30. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate break or breaks, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage or tub in the shaft. Break and
indicator

If the drum is not on the crank shaft, there shall be an adequate break on the drum shaft.

Break.—It is not sufficient only to provide an adequate break, but it must be kept in proper working order; and pumping gear, though it may serve the purpose of a break, is not a break in the sense here indicated. See *Nimmo v. Clark and Another*, 22nd Feb. 1872, 44 Scot. Jur. 267, 10 M. 477, decided under 23 & 24 Vict. c. 151.

The second paragraph of this rule contains a new provision, not required by former Acts.

Rule 31. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced. Fencing
machinery

Rule 32. Each steam boiler, whether separate or one of a range shall have attached to it a proper safety valve, and also a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in each boiler. Safety
valves and
gauges for
boilers.

It is not sufficient to attach a safety valve and steam and water gauge to one boiler of a range. These appliances are to be attached to each boiler.

§ 49. Rule 33. A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

Barometer,
&c

It will be observed that a barometer and thermometer are now required to be provided, whether inflammable gas has been found in the mine or not. It was only in the case of mines where inflammable gas had been found that these were so required under the Coal Mines Regulation Act, 1872, § 51

Stretchers Rule 34. Where persons are employed underground, ambulances or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident.

This is a new rule. Care should be taken to have the necessary appliances kept in a convenient place, and ready for use.

Wilful
damage

Rule 35. No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, man-hole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, break, indicator, steam gauge, water gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act.

"Man-hole" and "place of refuge" were not specially mentioned in the former rule, under the Coal Mines Regulation Act, 1872, § 51.

Observation directions Rule 36. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules in force in the mine.

Books and
copies
thereof

Rule 37. The books mentioned in these rules shall be provided by the owner agent or manager, and the books, or a correct copy thereof, shall be kept at the office at the mine, and any inspector under this Act,

and any person employed in the mine or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book has ceased to be used for entries therein under this Act. § 49.

Any report by this Act required to be recorded in a book may be partly in print (including lithograph) and partly in writing.

Books.—The general rules requiring books are:—

- | | |
|--|-----------|
| Rule 1. Measurement of air in splits or currents, | 1 Book. |
| Rule 4. Inspection of mine, | 2 Books. |
| (1.) Inspection before commencing work, | 1 Book. |
| (2.) Inspection during shifts where mine worked continuously for twenty-four hours by successive shifts, | 1 Book. |
| Rule 5. Inspection of machinery, | 2 Books . |
| (1.) Daily inspection of machinery, &c., | 1 Book. |
| (2.) Weekly inspection of shafts, | 1 Book. |
| Rule 7. Inspection of mine. Sudden danger, | 1 Book. |
| Rule 37. Inspection by workmen, | 1 Book. |

The Act does not provide that separate books are to be kept for the two different inspections under rule 4, but in practice it may be found convenient to do so. The same remark applies to rule 5. It was not previously provided that the books should be furnished by the owner, agent, or manager.

Under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76) the inspector or person employed in

§ 49.

the mine could not delegate his power to inspect or copy the books.

Reports.—The provision as to reports is new. It applies to all reports under the Act required to be recorded in a book, and not simply to those under the general rules.

Periodical
inspection
on behalf
of workmen.

Rule 38. The persons employed in a mine may from time to time appoint two of their number or any two persons, not being mining engineers, who are practical working miners, to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner agent or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery. Every facility shall be afforded by the owner agent and manager, and all persons in the mine for the purpose of the inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the inspection; and if the report state the existence or apprehended existence of any danger, the owner agent or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.

The provision requiring a copy of this report to be sent to the district inspector is new.

The workmen were restricted to the choice of two of their own number for such inspection under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76). They are now free to appoint any persons they choose, with the exception of mining engineers, provided the persons appointed are practical working miners.

Rule 39. No person not now employed as a coal or ironstone getter shall be allowed to work alone as a coal or ironstone getter in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have been previously employed for two years in or about the face of the workings of a mine. § 49.
—

Qualifications of getters of coal and ironstone.—This novel provision introduces a new feature into the occupation of a miner, practically requiring him to serve an apprenticeship of two years under the supervision of skilled workmen. Persons employed as coal or ironstone getters at the passing of the Act (16th September, 1887), are not affected by its provisions, but no other workman employed or to be employed in the mine is to be allowed to work alone in the face of such workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he has been previously employed for two years in or about the face of the workings of a mine.

It will be observed that the rule only strikes at an unskilled person working *alone* in the face of the workings. He is not prohibited from working there so long as he is under the supervision of skilled workmen. The use of the word "alone" leaves it rather uncertain whether the rule would cover the case of a number of unskilled persons working together at the face.

Care should be taken in the employment of new workmen to ascertain that they have the necessary experience, where they are required to work alone at the face. Where a person represents that he has the requisite experience, and is employed by the officials at the mine under that belief, and in good faith, the owner, agent, or manager and employer are exempted from any penalty, but the person who has so worked alone will, for such misrepresentation, be deemed guilty of an offence against the Act. See § 61.

50. Every person who contravenes or does not comply with any of the general rules in this Act, shall be guilty of an offence against this Act; and in the Penalty on non compliance with rules

§ 50. event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whosoever, the owner agent and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

Liability for contraventions of general rules.—The appointment of a certificated manager may be sufficient to acquit a non-resident part-owner of a mine of an offence for neglecting to observe the rules in terms of the Act; and if the magistrates find in such circumstances that the non-resident part-owner has taken all reasonable means to prevent non-compliance with the rules, the superior Court will not disturb their decision. See *Baker v. Carter*, 3 Ex. D. 132; 47 L.J., M.C. 87; 26 W.R. 497.

It is no defence to a summons charging "one of the owners and managers" of a mine with an offence under the Act, that there are other owners not charged with him. See *Reg. v. Brown*, 7 El. and Bl. 757; 26 L.J., M.C. 183; 3 Jur. N.S. 745.

These two cases were decided under former Acts, but they appear still applicable to the present Statute.

See also § 66 and the decisions cited in notes to §§ 9, 21, 37, and 49, rule 1.

It should be remembered that by the fifth section of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43, any person aiding and abetting the commission of any offence which is liable to summary conviction is liable to be convicted for the same, either together with the principal offender, or before or after his conviction. In *Howells v. Wyne*, 15 C.B., N.S. 3; 32 L.J., M.C. 241, it was held that a person who was present, and who could have, but had not, prevented a breach of a special rule, was properly convicted under that section.

Special Rules.

§ 51.

51. (1.) There shall be established in every mine ^{special rules} such rules (referred to in this Act as special rules) for ^{for every mine} the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety convenience and proper discipline of the persons employed in or about the mine.

(2.) Such special rules, when established, shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine, (including any extension thereof) in the same manner as if they were enacted in this Act.

(3.) If any person who is bound to observe the special rules established for any mine, acts in contravention of or fails to comply with any of them, he shall be guilty of an offence against this Act, and also the owner agent and manager of such mine shall each be guilty of an offence against this Act unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules as regulations for the working of the mine, so as to prevent such contravention or non-compliance.

Provisions of special rules.—The special rules under the prior Acts were not required to provide for the "convenience" of the persons employed in connection with the mine; nor did they require to be signed in duplicate by the inspector. One copy of the rules will be retained by the inspector, and the other copy, after being certified by him in terms of § 56, will be returned to the owner, agent or manager.

21.

Application of special rules.—The words “including any extension thereof” in sub-section (2) are new. When the special rules are once established at a mine, they will therefore apply to any new shaft of such mine subsequently opened.

Compliance with special rules.—Workmen must comply with the special rules so long as they are in or about the mine, although their contract of service may have been previously brought to an end. See *Higham v. Wright*, 2 C.P.D. 397; 46 L.J., M.C. 223; 37 L.T. 187.

The special rules will be strictly interpreted. Thus, where a special rule provided that the engine-tender should allow no one to be in the engine-house, this was held to be an absolute prohibition; and the engine-tender was convicted for allowing a person to be in the engine-house, notwithstanding that the chief-engineer had authorised the person to be there. *Reg. v Baker*, 10 J.P. 740.

As to penalties for offences against the Act, see § 59.

Establishment
of new special
rules

52. (1.) The owner agent or manager of every mine shall frame and transmit to the inspector of the district, for approval by a Secretary of State, special rules for the mine within three months after the commencement of this Act, or within three months after the commencement (if subsequent to the commencement of this Act) of any working for the purpose of opening a new mine or of renewing the working of an old mine.

(2.) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of

special rules for the information of persons employed in the mine, and a certificate that the rules and notice have been so posted up shall be sent to the inspector with two copies of the rules, signed by the person sending the same.

, 52.

(3.) If the rules are not objected to by the Secretary of State within forty days after their receipt by the inspector, they shall be established.

New special rules.—It is essential that the person framing the new rules, should be conversant with the whole provisions of the Act, in order that he may be able to distinguish what rules are necessary, under the particular state and circumstances of the mine, "for the conduct and guidance of the persons acting in the management of such mine or employed in or about such mine," and which "appear best calculated to prevent dangerous accidents, and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine."

The owner, agent, or manager should be careful not to insert or agree to the insertion of any provision in the special rules which is not applicable to the particular state and circumstances of the mine or mine belonging to him or under his management, as the whole provisions of the special rules when once established must be complied with, and it is no excuse for non-compliance that such mine or mine did not require to be placed under any particular provision of these rules. See *Ninano v. Clark and Another*, 11 Scot. Jur. 267, 10 M. 117; *Elger v. Law and Brand*, 41 Scot. Jur. 60; and *Hughes v. Kenneth & Sons*, 3 Scot. L. Rev. 107 (a difficult court case).

In framing the new special rules under this Act, the points requiring attention may be more readily ascertained on reference to the summary of alterations on the regulations, which will be found in the introduction to this work. The new rules should be framed without delay, as the procedure prescribed by sub-section (2) falls to be carried through prior to the transmission of the draft to the district inspector. The provision for the framing and transmission of new special rules in the case of mines coming under the Act sub-

§ 52.

sequent to its commencement (1st January, 1888), does not apply to any extension of a mine in which special rules are already established under this Act. See § 51.

The special rules established in any mine before the commencement of the Act (1st January, 1888), are to remain in force until superseded by new rules established under this Act, § 81. The regulations for the publication of special rules will be found in § 57. For form of notices and certificate as to the publication of proposed new special rules, see Appendix.

The proposed special rules are now to be sent to the inspector in duplicate. Where the rules are not objected to within forty days after their receipt by the inspector, they are to be held as established, without any formal approval. See also notice on previous section.

Secretary of
State may ob-
ject to special
rules

53. (1.) If the Secretary of State is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the inspector, object to the rules, and propose to the owner agent or manager in writing any modifications in the rules by way either of omission alteration substitution or addition.

(2.) If the owner agent or manager does not, within twenty days after the modifications proposed by the Secretary of State are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3.) If the owner agent or manager sends his objection in writing within the said twenty days to the Secretary of State, the matter shall be referred to arbitration under this Act, and the date of the receipt

of the objection by the Secretary of State shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration. § 53.

The provisions of the Act with reference to arbitration are contained in § 47. See § 73 as to service of notices.

A form of notice objecting to the modifications proposed by the Secretary of State will be found in the Appendix.

54. (1.) After special rules are established under this Act in any mine, the owner agent or manager of the mine may from time to time propose in writing to the inspector of the district, for the approval of a Secretary of State, any amendment of the rules or any new special rules, and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules. Amendment of special rules.

(2.) A Secretary of State may from time to time propose in writing to the owner agent or manager of the mine any new special rules, or any amendment of the special rules, and the provisions of this Act with respect to a proposal of a Secretary of State for modifying the special rules transmitted by the owner agent or manager of a mine shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

See §§ 51, 52, 53, and relative notes.

55. If the owner agent or manager of any mine makes any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any False statements, and neglect to transmit special rules.

§ 55

mine are not transmitted within the time limited by this Act to the inspector for the approval of a Secretary of State, the owner agent and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by enforcing to the best of his power the provisions of this Act, to secure the transmission of the rules.

As to penalties for offences against the Act, see § 59.

Certified
copy of special
rules to be
evidence

56. An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules which for the time being are established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act and have been signed by the inspector.

Publication of Abstract of Act and of Special Rules.

Publication of
abstract of
Act and copy
of special rules

57. For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner agent or manager of the mine, by the inspector of the district on behalf of a Secretary of State, and a correct copy of all the special rules shall be published as follows :

- (1.) The owner agent or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address

of the inspector of the district, and the agent of the owner or agent and of the manager appointed thereto, to be posted up in legible characters, in some conspicuous place at or near the mine where they may be conveniently read by the persons employed; and so often as the same become defaced obliterated or destroyed, shall cause them to be renewed with all reasonable despatch:

- (2.) The owner agent or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner agent or manager are paid.
- (3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner agent and manager shall each be guilty of an offence against this Act; but the owner agent or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means by enforcing to the best of his power the observance of this section, to prevent such non-compliance.

Delivery of a copy of the rules is not a condition precedent to the right to enforce them. See *Higginson v. Hopley*, 10 L.T. (N.S.) 690.

As to the procedure in the establishment of proposed new special rules, see § 52

58. Every person who pulls down, injures, or pulls down, or defaces any abstract, notice, proposed special rules, or notice.

s 58

special rules when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act.

As to penalties for offences against the Act, see § 59.

PART III.

SUPPLEMENTAL.

Legal Proceedings.

Penalty for
offence
under Act

59. (1.) Every person employed in or about a mine, other than an owner agent or manager, who is guilty of any act or omission which in the case of an owner agent or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

(2.) Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding, if he is an owner agent or manager or under-manager twenty pounds, and if he is any other person, two pounds, for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding one pound for every day after such notice that such offence continues to be committed.

The provisions of sub-section (2) are made applicable to an under-manager.

Imprisonment
for wilful
disobedience
of order

60. Where a person who is an owner agent or manager or under-manager of or a person employed in or about a mine is guilty of any offence against this Act which, in the opinion of the court that tries

the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding three months. § 60.

It will be noted that the provisions of this section include an under-manager.

61. (1.) All offences under this Act not declared to be misdemeanours, and all fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction as any proceedings for offences fines, &c

(2.) Proceedings for the removal of a check-weigher shall be deemed to be a matter on which a court of summary jurisdiction has authority by law to make an order in pursuance of the Summary Jurisdiction Acts; and summary orders under this Act may be made on complaint before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

Misdemeanours.—The offences declared by the Act to be misdemeanours are defined in § 33. "Misdemeanour" in Scotland means "crime and offence," § 76.

Court of summary jurisdiction.—A court of summary jurisdiction is by the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, § 50, defined to mean "any justice or justices of the peace or other magistrate, by whatever name called, to

§ 61.

whom jurisdiction is given by, or who is or are authorised to act under the Summary Jurisdiction Acts, or any of such Acts.

These Acts are, according to the definition given by the same section of the Act of 1879, the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43. the Summary Jurisdiction Act, 1879, and any Act, past or future, amending the Summary Jurisdiction Act, 1848, or the Act of 1879.

In effect, the Acts which now regulate summary jurisdiction in England are confined to the Acts of 1848 and 1879. The latter Act contains in § 51 provisions for facilitating the application of the Summary Jurisdiction Acts to any future Act.

The definition of what constitutes a court of summary jurisdiction in Scotland and in Ireland will be found in §§ 67 and 77 respectively.

Removal of a check-weigher.—The grounds of complaint for removal of a check-weigher will be found in § 13.

General
provision
as to summary
proceedings.

62. In every part of the United Kingdom the following provisions shall have effect :

- (i.) Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within three months from the time when the matter of the complaint or information arose :
- (ii.) Any person charged with any offence under this Act, may, if he thinks fit, be sworn and examined as an ordinary witness in the case :
- (iii.) The court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

Time of complaint or information.—The only exception specially provided for is contained under § 38 which has reference to the plan of an abandoned mine or seam being sent to the Secretary of State. A complaint or information under that section may be made or laid within six months from the time therein specified. See § 38.

By the provision in sub-section (2) employers and workmen are placed on an equality. In any prosecution the accused

person is now permitted to give his evidence. Under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76), it was competent for the owner, agent, or manager, to be sworn and examined as a witness, but only when he was charged with a contravention of the Act, and not by another person.

§ 62.
—

63. If any person feels aggrieved by any conviction made by a court of summary jurisdiction on determining any information under this Act, by which conviction imprisonment or a fine amounting to or exceeding one half the maximum fine, is adjudged he may appeal therefrom to a court of quarter sessions in manner provided by the Summary Jurisdiction Acts.

Appeals in England to Quarter Sessions.—The provisions as to the mode of appeal to Quarter Sessions are contained in the 31st section of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, and may be briefly summarised as follows.—

The appeal is to be made to the prescribed court of Quarter Sessions, or, if none is prescribed, to the next practicable court of Quarter Sessions having jurisdiction in the county, borough, or place for which the court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given (sub-section 1). Notice of intention to appeal must be served on the other party and on the clerk of the court of summary jurisdiction within the time prescribed, or seven days from the decision (sub-section 2). The person giving notice of appeal must enter into a recognisance to appear and try such appeal and pay costs (sub-section 3). If the appellant is in custody, it is in the power of the court to release him on his fulfilling the conditions of sub-section 3 (sub-section 4). The court of appeal has full power of dealing with the matter submitted to it (sub-section 5). Where the decision of the court is not confirmed, a memorandum of the decision of the court of appeal is to be sent to the clerk of the court of summary jurisdiction, for entry in his register, and is also to be endorsed on the conviction or order appealed against, and to be added to any copy of such

§ 63.
—

conviction or order (sub-section 6). The notice of appeal must be in writing, signed by the appellant or his agent on his behalf, and may be served by being sent in a registered letter.

The power given by § 63 of appealing to Quarter Sessions does not oust the right to have a case stated. Any person aggrieved may apply to have a special case stated if he desires to question a conviction order or other proceeding of a court of summary jurisdiction on the ground that it is erroneous in point of law, or is in excess of jurisdiction; and if the court declines to state the case, he may apply to the High Court for an order requiring the case to be stated. See Summary Jurisdiction Act, 1879, § 33.

See also § 67 and § 77.

Liability for
misrepresenta-
tion as to
age, &c

64. If it appears that a boy or girl was employed on the representation of his or her parent or guardian that he or she was of the age at which his or her employment would not be in contravention of this Act, and under the belief in good faith that he or she was of that age, or that a person has worked alone as a coal or ironstone getter on his representation that he has had two years' experience of such work under the supervision of skilled workmen, or that he has been previously employed for two years in or about the face of the workings of a mine, and under the belief in good faith that he has had such experience or has been so previously employed, the owner agent or manager of the mine and employer shall be exempted from any penalty, and the parent or guardian or the person who has so worked alone, as the case may be, shall, for the misrepresentation, be deemed guilty of an offence against this Act.

See §§ 9 and 49 (general rule 39).

Prosecution
of owners,
agents,
managers,
&c.

65. No prosecution shall be instituted against the owner agent manager or under-manager of a mine for any offence under this Act, not committed personally

by such owner agent manager or under-manager, which can be prosecuted before a court of summary jurisdiction, except by an inspector or with the consent in writing of a Secretary of State; and in the case of any offence of which the owner agent manager or under-manager of a mine is not guilty if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner agent manager or under-manager, if satisfied that he had taken such reasonable means as aforesaid. No prosecution shall be instituted against a coroner for any offence under this Act except with the consent in writing of a Secretary of State.

Prosecution of owners, agents, or managers.—This provision contains an important alteration. Under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76, § 64), the owner, agent, or manager, could not be prosecuted without the sanction of the Secretary of State, except by an inspector, for an offence committed personally. It is now competent for the employers and workmen, without sanction, to prosecute one another for an infraction of the law, except where such prosecution is brought against the owner, agent, manager, or under-manager of a mine by some person other than an inspector, for an offence not committed personally—*i.e.*, committed by another person—in which case the consent of the Secretary of State is still required.

The new official under the Act (*i.e.*, the under-manager) is placed on the same basis in reference to prosecutions as the owner, agent, and manager.

The consent of the Secretary of State to a prosecution against a coroner was not previously required. For the offence of which a coroner may be guilty, see § 48.

See also §§ 9, 11, 12, 50, 57.

66. Where the owner agent or manager of a mine has taken proceedings under this Act against any

Report of result of proceedings against workmen.

§ 66.

person employed in or about a mine in respect of an offence committed under this Act, he shall, within twenty-one days after the hearing of the case, report the result thereof to the inspector of the district.

The provisions of this section are entirely new, and were not contained in the prior Acts.

Summary
proceedings
for offences
in Scotland

67. In Scotland the following provisions shall have effect :

- (1.) The court of summary jurisdiction when hearing and determining an information or complaint shall be the sheriff :
- (2.) All jurisdictions powers and authorities necessary for the court of summary jurisdiction under this Act are hereby conferred on that court :
- (3.) Every person found liable under this Act by a court of summary jurisdiction in any fine, or to pay any money or costs by this Act directed to be recovered as fines, shall be liable in default of immediate payment to be imprisoned for a term not exceeding three months, and the conviction and warrant may be in the form of No. 3 of Schedule K of the Summary Procedure Act, 1864 :
- (4.) Any fine exceeding fifty pounds shall be recovered and enforced in the same manner in which any penalty due to Her Majesty under any Act of Parliament may be recovered and enforced :
- (5.) An appeal shall not lie from any conviction made by a sheriff, save to the next circuit court, or where there are no circuit courts, to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act

27 & 28 Vict.
c. 71.

of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules limitations conditions and restrictions contained in the said provisions. § 67.

Summary proceedings in Scotland.—The jurisdiction held by justices of the peace in Scotland under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76, § 72), has now been taken away. For summary procedure in Scotland, see the Summary Procedure Act, 1864 (27 & 28 Vict. c. 53), the Summary Jurisdiction (Scotland) Act, 1881, (44 & 45 Vict. c. 33), the Summary Jurisdiction (Process) Act, 1881 (44 & 45 Vict. c. 24), Summary Prosecutions Appeals (Scotland) Act, 1875 (38 & 39 Vict. c. 62), and Criminal Procedure (Scotland) Act, 1887 (50 & 51 Vict. c. 35). For appeals under 20 Geo. II. c. 43, see Mr. Moncrieff on Review in Criminal Cases, p. 219-245.

The term sheriff includes sheriff-substitute, § 76.

68. (1.) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, however, that no person be punished twice for the same offence. Saving for proceedings under other Act.

(2.) If the court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the court may adjourn the case to enable such proceedings to be taken.

69. A person who is the owner agent or manager of any mine or a miner or miner's agent, or the father son or brother, or father-in-law, son-in-law, or Owner of mine, &c., not to act as justice, &c., in proceedings under this A

§ 69. brother-in-law, of such owner agent or manager, or of a miner or miner's agent, or who is a director of a company being the owner of a mine, shall not, except with the consent of both parties to the case, act as a court or member of a court of summary jurisdiction in respect of any offence under this Act.

The disqualification of the owner, agent, or manager's relatives contained in the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), has been extended to a father-in-law, son-in-law, or brother-in-law, and the disqualification of miners, miners' agents, and their relations, and of the directors of a company owning a mine, is new. The express mention of a director would seem to solve a doubt which has sometimes been felt, as to whether a mere shareholder in a mine is disqualified from acting judicially; and it may be confidently stated that he is not.

Application
of fines

70. Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, a Secretary of State may (if he thinks fit) direct such fine to be paid to or distributed among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion accident or offence, or among some of them.

Provided that—

- (i.) Such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence :
- (ii.) The fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid—

§ 70.

All fines recovered in England or Scotland under this Act shall be paid into the receipt of Her Majesty's Exchequer, and shall be carried to the Consolidated Fund ;

All fines recovered in Ireland under this Act shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Act amending the same.

Miscellaneous.

71. If any question arises (otherwise than in legal proceedings) whether a mine is a mine to which this Act or the Metalliferous Mines Regulation Act, 1872, or any other Act for the time being in force and relating to metalliferous mines applies, the question shall be referred to a Secretary of State, whose decision thereon shall be final.

The exception in parenthesis is new, and did not occur in any of the prior Acts. See notes to §§ 3, 75, as to definition and interpretation of the term "mine" The Metalliferous Mines Regulation Act, 1872, is 35 & 36 Vict. c. 77.

72. Any order of or exemption granted by a Secretary of State under this Act may be made, and from time to time revoked, or altered by a Secretary of State, either unconditionally or subject to such conditions as he may see fit, and shall be signed by a Secretary of State or under secretary or assistant under secretary.

73. All notices under this Act shall (unless expressly required to be in print) be in either writing or print (including lithograph), or partly in writing

§ 73.

and partly in print (including lithograph), and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a prepaid letter; and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

The provisions requiring matter to be in print are contained in §§ 52 and 57. Lithograph was not specified as permissible under the former Act (Coal Mines Regulation Act, 1872).

Any report required by the Act to be recorded in a book may also be partly in print (including lithograph) and partly in writing, § 49, rule 37.

Application of
32 & 39 Vict
c 53, s 38

74. Section thirty-eight of the Public Health Act, 1875 (which relates to privy accommodation for any house used as a factory or building in which both sexes are employed), shall apply to the portions of a mine which are above ground, and in which girls and women are employed, in like manner as if it were herein re-enacted with the substitution of "those portions of the mine" for the house in the said section mentioned.

The following are the terms of § 38 of the Public Health Act, 1875 —

The local authority may, by written notice, require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies, and ash-pits for the separate use of each sex. Any person neglecting or refusing to comply with such notice is liable for each default to a penalty not exceed-

m. £20, and to a further penalty of not less than forty shillings for every day during which the default is continued.

§ 74.

• In Scotland there is substituted for the first of the provisions § 41 of the Public Health (Scotland) Act 1867 such as in the following terms:—

“The local authority may erect and supply with water closets, privies, and urinals, and in such situations as they may think fit, and may draw the expense thereof, and of keeping the same in repair and in good order, and shall cause each privy to be cleansed duly, and the local authority may also, by written notice to the owner or occupier of any such house or of any factory or building, in which more than ten persons are employed at one time in any manufacture, trade, or business, require them, or either of them, within a time specified, to construct a sufficient number of water closets or privies for the separate use of each sex, and any person failing to comply with such notice shall be liable for each offence in a penalty not exceeding twenty pounds.”

The corresponding provision in Ireland is § 48 of the Public Health (Ireland) Act, 1878, which is substantially the same as those quoted.

See § 7 in reference to the other provisions which relate to women are employed.

75. In this Act, unless the context otherwise requires,— Interpretation
of terms

“Mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine:

“Shaft” includes pit:

“Plan” includes a correct copy or tracing of any original plan:

“Owner,” when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of

§ 75.
—

any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability :

“Agent,” when used in relation to any mine, means any person appointed as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act :

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State :

“The Treasury” means the Commissioners of Her Majesty’s Treasury :

“Boy” means a male under the age of sixteen years :

“Girl” means a female under the age of sixteen years :

“Woman” means a female of the age of sixteen years or upwards.

See notes to § 3, as to term “mine.”

The words “immediate proprietor or lessee” would hardly include a mortgagee or debenture holder. The former, if in possession, would fall under the term “occupier.” *Quære*: whether a receiver appointed in a debenture holder’s action would come within the definition.

(1.) The term "Attorney General" means the Lord Advocate: 76.

(2.) The term "injunction" means interdict:

(3.) The term "misdemeanour" means "minor offence":

(4.) The term "chairman of quarter-sessions" means the sheriff of the county:

(5.) The term "sheriff" includes sheriff-substitute:

(6.) The term "attending on subpoena before a court of record" means attending on citation the Court of Justiciary:

(7.) The auditor of the sheriff court of the county or district of a county in which any inquiry takes place shall perform the duties of a master of one of the superior courts under this Act:

(8.) "County court judge, police magistrate, stipendiary magistrate, recorder, or registrar of a county court" means a sheriff or sheriff-substitute:

(9.) Notices of explosions, accidents, loss of life, or personal injury shall be deemed to be sent to the inspector of the district on behalf of the Lord Advocate:

(10.) Sections forty-one and sixteen of the Public Health (Scotland) Act, 1867, shall respectively ^{30 & 31 Vict. c. 100.} be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875.

(11.) The term "public elementary school" means State-aided school.

Nothing in this Act shall affect any provision in the Education (Scotland) Acts, 1872 to 1883.

77. In the application of this Act to Ireland,—

Application
of Act to
Ireland.

§ 77.

(a.) The expression "the Summary Jurisdiction Acts" means, as regards the Dublin metropolitan police district, the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere, in Ireland, the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same.

(b.) In hearing and determining a charge under this Act, a court of summary jurisdiction elsewhere than in the Dublin metropolitan police district, shall be constituted of two or more justices of the peace or of a resident magistrate, with or without other justices, sitting in petty sessions; and a resident magistrate means a magistrate appointed pursuant to the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter fourteen:

41 & 42 Vict.
c. 52.

(c.) Sections forty-eight and one hundred and seven of the Public Health (Ireland) Act, 1878, shall respectively be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875.

(d.) The expression "police or stipendiary magistrate" means resident magistrate:

"Master of one of Her Majesty's Superior Courts" means a taxing master of the High Court of Justice in Ireland:

"Registrar of a county court" means clerk of the peace:

"London Gazette" means Dublin Gazette:

"Attorney-General" means Attorney-General for Ireland:

"Chairman of quarter sessions" means county court judge. 77

Transitory Provisions and Repeal.

78. The persons who at the commencement of this Act are acting as inspectors under the Acts hereby repealed, and the boards for appointing examiners for managers' certificates under those Acts, shall continue to act in the same manner, and generally to be in the same position, as if they had been respectively appointed under this Act.

79. All orders made by a Secretary of State under any Act repealed by this Act, which are in force immediately before the commencement of this Act, shall be deemed to have been made under this Act: and all certificates of competency or of service granted under any Act repealed by this Act which are in force immediately before the commencement of this Act, shall be deemed to be first class certificates granted under this Act; and the register of holders of certificates, and the other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed, shall be deemed to be registers or parts of registers kept in pursuance of this Act.

80. (1.) A certificate of service shall be granted by a Secretary of State to every person who satisfies him either that before the passing of this Act he was exercising, and has since that date exercised, or that he has at any time within five years before the passing of this Act for a period of not less than

s 80.

twelve months exercised, functions substantially corresponding to those of an under-manager in a mine.

(2.) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Secretary of State may direct, not exceeding that mentioned in the Second Schedule to this Act.

(3.) A certificate of service granted under this section shall have the same effect for the purpose of this Act as a second class certificate of competency granted under this Act.

An applicant for a certificate of service under this section must satisfy the Secretary of State:—

- (1.) That he was exercising functions substantially corresponding to those of an under-manager in a mine before the *passing* of the Act (16th September, 1887), and has continued to exercise such functions since that date; or
- (2.) That he has for not less than twelve months between the period from 16th September, 1882, and 16th September, 1887, exercised functions substantially corresponding to those of an under-manager.

For duties of an under-manager, see § 21.

For form of application for certificate of service, see Appendix.

Existing
special rules
continued.

81. The special rules which at the commencement of this Act are in force under any Act hereby repealed in any mine shall continue to be the special rules in such mine until special rules are established under this Act for such mine, and while they so continue

shall be of the same force as if they were established under this Act. § 31.

See § 52 and relative notes in reference to the new special rules thereby required.

82. The provisions of this Act shall not—

(a.) Prevent a boy under the age of twelve years Temporary saving for employment of boys and girls between ten and twelve who, before the commencement of this Act, is lawfully employed in any mine below ground from continuing to be employed in a mine; nor

(b.) Prevent a boy or girl who, before commencement of this Act, is lawfully employed above ground in connection with any mine from continuing to be employed above ground in connection with a mine; nor

(c.) Prevent a competent male person above the age of eighteen years who before the commencement of this Act is lawfully employed in working the machinery used for lowering and raising persons in a mine from continuing to be so employed;

in like manner and subject to the same provisions and regulations as before the commencement of this Act, and the provisions of the Acts repealed by this Act, with respect to the employment of such boy or girl or competent male person shall continue to apply accordingly.

Employment of boys and girls and enginemen lawfully employed before the Act.—Boys between the age of ten and twelve years were allowed to be employed below ground under the former Act (Coal Mines Regulation Act, 1872, 35 & 36 Vict. c. 76, § 4), in thin seam mines, by permission of the Secretary of State, under certain conditions as to the

§ 82.

terms of employment, &c. The object of this provision is to protect such boys in the continuance of their employment. See § 4.

Boys and girls between the age of ten and twelve years were allowed to be employed above ground under the former Act (Coal Mines Regulation Act, 1872, § 12). See § 7.

An engineman employed in lowering and raising persons only required to be eighteen years of age under the former Act (Coal Mines Regulation Act, 1872, § 14). He must now be twenty-two years of age. See § 49, general rule 25.

Construction
of references
to repealed
Acts,

83. Any enactment or document referring to any Act repealed by this Act, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactments thereof.

Repeal of
Acts.

84. The Acts described in Schedule Four to this Act are hereby repealed.

Provided that this repeal shall not affect any exemption granted, or other thing done or suffered before the commencement of this Act; and all offences committed and penalties incurred and proceedings commenced before the commencement of this Act may be punished recovered continued and completed in the same manner as if this Act had not passed.

SCHEDULES.

SCHEDULE ONE.

Section 21

PROCEEDINGS of BOARD for EXAMINATIONS.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning notice place management and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions :—

- (a.) Any regulations made by the board constituted under the Acts repealed by this Act, and in force at the commencement of this Act, shall continue in force till repealed or altered by the board.
- (b.) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman ;
- (c.) The quorum to be fixed by the board shall consist of not less than three members ;
- (d.) Every question shall be decided by a majority of votes of the members present and voting on the question ;
- (e.) The names of the members present, as well as those voting upon each question, shall be recorded ;
- (f.) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting, and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board signed by the chairman.

6. The board shall keep minutes of their proceedings, which may be inspected or copied by a Secretary of State, or any person authorised by him to inspect or copy the same.

Sections 25
and 30.

SCHEDULE TWO.

TABLE of MAXIMUM FEES to be paid in respect of CERTIFICATES.

First-Class Certificate.

By an applicant for examination .	Two pounds.
For copy of certificate	Five shillings.

Second-Class Certificate.

By an applicant for an examination	One pound.
For copy of certificate,	Two shillings and sixpence.

SCHEDULE THREE.

Section 33.

Coal Mines Regulation Act, 1887, 50 & 51 Vict. c. 58.

FORM OF RETURN.

This Form to be correctly filled up by the Owner, Agent, or Manager, and sent to the Inspector of the District, on behalf of the Secretary of State, on or before 21st January, every year.

PART A.

Year ending 31st December, 18 .

Name of Mine _____
 Situation of Mine _____
 County _____
 Name of Owner (Company) _____
 Name of Manager _____
 Name of Under-manager _____
 Postal Address _____

RETURN OF PERSONS ordinarily employed during the Year:—

Under ground .	Boys of 12 and under 16	
	Males above 16	
	Total under ground .	
Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal).	Boys of 12 and under 13	
	Girls do. . . .	
	Boys of 13 and under 16	
	Girls do. . . .	
	Females above 16	
	Males do. . . .	
	Total above ground .	
	Total number of persons employed under ground and above ground .	

QUANTITY OF MINERAL wrought during the Year.

Mineral Wrought.	Number of Statute Tons wrought.
Coal.....
Fireclay....
Ironstone.....
Shale—(bl Shale
Do. used for other purposes.....
Copperas Lumps, or Iron Pyrites.....
Other Minerals, viz :—
.....
.....

The NUMBER of DAYS in each MONTH on which COAL or IRONSTONE has been drawn.

	Number of Days on which was drawn.	
	1. Coal.	2. Ironstone.
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

day of 18 ;

(Signed)_____.

Section 84

SCHEDULE FOUR.

REPEAL.

Date of Act.	Title of Act.	Extent of Repeal.
35 & 36 Vict. c. 76. [1872.]	The Coal Mines Regulation Act, 1872.	The whole Act.
44 & 45 Vict. c. 26. [1881.]	The Stratified Ironstone Mines (Gunpowder) Act, 1881.	The whole Act.
49 & 50 Vict. c. 40. [1886.]	The Coal Mines Act, 1886.	The whole Act.

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APPENDIX

OFFICIAL.

1. *Employment Register of Boys, Girls, and Women prescribed by the Secretary of State, in terms of Section 8 of the Act.*

REGISTER.

..... *Misc.* *Manager:*

Note.—This may be examined and copied by any Inspector, or Officer of a School Board or School Attendance Committee in the District.

Boys employed below ground.

From	day of	18	to	day of	18
Name.	Date of Birth	Residence.		Date of first employment.	Remuneration.

Boys employed above ground.

From	day of	18	to	day of	18
Name.	Date of Birth	Residence.		Date of first employment.	Remuneration.

Employment Register for Boys, Girls, and Women—continued.

.....Mine.Manager.

Girls employed above ground.

From day of 18 to day of 18 .

Name.	Date of Birth.	Residence.	Date of first Employment.	Remarks.

Women employed above ground.

From day of 18 to day of 18 .

Name.	Residence.	Date of first Employment.	Remarks.

2. Notices as to Certificates of Competency, First and Second Class.

(a) NOTICE RELATING TO DISTRICT BOARDS FOR APPOINTING EXAMINERS.

Whereas, in pursuance of Section 78 of the above-mentioned Act, the Boards for appointing Examiners for Certificates of Competency under the repealed Coal Mines Regulation Act, 1872, continue to act and generally to be in the same position as if they had been respectively appointed under the said Act of 1887; and whereas, in pursuance of Section 23 of the said Act of 1887, the Secretary of State for the Home Department has determined that the said Boards shall continue to be constituted as heretofore for each District in charge of an Inspector of Mines: Notice is hereby given that the under-mentioned persons are appointed to act as Secretaries to the several Boards for Examinations for the purpose of the grant of Managers' and Under-Managers' Certificates of Competency under the above-named Act of 1887.

Applicants desirous of being examined for First or Second Class Certificates of Competency should, therefore, apply for all necessary information to the Secretary to the Board for that District in which they desire to be examined.

(b) NAMES OF H.M. INSPECTORS OF MINES AND OF THE SECRETARIES TO THE BOARDS FOR EXAMINATIONS.

No. of Mining District.	Name of Mining District.	Name and Address of Mines Inspector.	Name and Address of the Secretary to the Board for Examinations.
1	East Scotland District, comprising Counties of Clackmannan, Perth, Kinross, Sutherland, Edinburgh, Fife, Haddington, Linlithgow, Upper and Middle Wards of Lanark, and part of Stirling.	R. Moore, Esq., Glasgow.	Robert Calder, Esq., 3 Fintry Place, Broughty Ferry, N.B.

No. of Mines District	Name of Mines District	Name and Address of Mines Inspector	Name and Address of the Secretary to the Local Authority for Examination
2	Scotland West District, comprising Counties of Ayr, Kyle, Ayr, Dun- fries, Dumfriesshire, Renfrew, and por- tions of Lanark and Stirling.	J. M. Ronaldson, Esq., 41 Athole Gardens, Glasgow.	Stuart Foulis, Esq., 135 St Vincent St Glasgow.
3	Newcastle District, comprising Counties of Cumberland and Northumberland and part of Dur- ham.	James Willis, Esq., Newcastle on Tyne.	T. Gosman, Esq., Coal Trade Office, Newcastle on Tyne.
4	Durham District, com- prising County of Westmorland, part of Durham, and North Riding of Yorkshire.	Thomas Bell, Esq., Durham.	Geo. W. Butkett, Esq., Tees & Tyne Darlington.
5	Yorkshire and Lancashire District, com- prising Yorkshire, exclusive of North Riding, and Lancashire.	T. N. Wardell, Esq., With upon Dearne Rothwell.	J. R. Jeffery, Esq., 5 Piccadilly Bridford.
6	Manchester District comprising North and West Lancashire and Ireland.	J. Dickinson, Esq., South Park, Pendleton, Manchester.	M. W. Pease, Esq., 18 King Street Wigan.
7	Liverpool District, comprising County of Lancashire, Denbigh shire and West Lancashire.	Henry Hall, Esq., Rainhill, Prescott.	M. W. Pease, Esq., 18 King Street Wigan.

No. of Mining District	Name of Mining District	Principal Agent	Principal Office
9	Midland District, comprising Counties of Derby, Leicester Nottingham, and Warwick	A L St John Esq Leicester	Walsley Derby
(10)	Metaliferous Mining District		
10	North Staffordshire District, comprising North Staffordshire, Cheshire, and Shropshire	Thomas Wynn Esq Chasall, Stafford	J Kemp Esq Westgate House Staffordshire
11	South Staffordshire District, comprising South Staffordshire and Worcestershire	W P Scott, Esq Parkdale, Wolverhampton	William Moore Esq Shelfield near Wolverhampton
12	South Western District, comprising the Counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan	J S Martin, Esq Durdham Park, Redlands, near Bristol	J S Thomas, Esq Forest House Clevedon
13	South Wales District, comprising Counties of Carmarthen, Pembrokeshire, and parts of Brecon, and Glamorgan	J T Robson, Esq St Helens Road Swansea	C H Evans Esq 8 Courtland Terrace Northey Tydfil
(14)	Metaliferous Mining District		

(c) INSTRUCTIONS AS TO CERTIFICATES OF COMPETENCY.

The fee to be paid by an applicant for Examination is :—

- (1.) For a first-class certificate of competency, £2.
- (2.) For a second-class certificate of competency, £1.

Any person desirous of being examined must make an application to the Secretary of State, in the form hereunder set forth, enclosing therein a post-office order, or postal note, for the fee of £2 or £1, as the case may be, in favour of Carey Knyvett, Esq., C.B., Home Office, Whitehall, London, S.W., made payable at the General Post Office. The applicant will then receive from the Home Office an authority to present himself for examination before the Examiners appointed for the District.

(d) FORM OF APPLICATION FOR EXAMINATION, FOR CERTIFICATE OF COMPETENCY.

Date..

Full postal address..

SIR,

I beg to inform you that I am desirous of presenting myself to be examined by the Examiners for the District of
for a (First *or* Second Class) Certificate of Competency as (manager *or* under-manager) of a mine, and I enclose a post-office order for the sum of (£2 *or* £1).

I am,

Sir,

Your obedient Servant,

To the Right Hon. the Secretary
of State for the Home Department.

To be accompanied by statement, on paper of foolscap size :—

- | | |
|--|----|
| 1. Name and address, in full, of applicant for (First <i>or</i> Second Class) Certificate. | 1. |
| 2. Name of the District in which the applicant wishes to be examined. | 2. |

(e) NOTICE RELATING TO APPLICANTS FOR CERTIFICATES
OF SERVICE.

Any person who satisfies the Secretary of State that, before the passing of the Act (16th September, 1887) he was exercising, and has since that date exercised, the right to any mine within five years before the passing of the Act, for a period of not less than twelve months, or exercised functions substantially corresponding to those of an under-manager of a mine, entitled to a certificate of service, which shall have the same effect for the purposes of the Act, as a second-class certificate of competency granted under the Act (sect. 80).

The fee to be paid by an applicant for a certificate of service is five shillings.

Forms of application, containing full directions, will be supplied to applicants by the Home Office, on request being made in the form hereunder:—

(f) FORM OF APPLICATION FOR CERTIFICATE OF SERVICE.

Sir,

I beg to apply for a form of application for a certificate of service as under-manager of a mine.

I am,

Sir,

Your obedient Servant,

To the Right Hon. the Secretary
of State for the Home Department.

3. *List of the Names, Addresses, and Districts Assigned, of Her Majesty's Inspectors of Mines, and the Names and Addresses of the Inspectors assisting.*

Names and Addresses of Inspectors of Districts.	Names and Addresses of Inspectors Assisting.	DISTRICTS ASSIGNED.
<p>Ralph Moore, Esq., Glasgow.</p> <p>J. M. Ronaldson, Esq., 44 Athole Gardens, Glasgow.</p> <p>James Willis, Esq., Newcastle-on-Tyne.</p> <p>Thomas Bell, Esq., Durham.</p>	<p>R. M'Laren, Esq., Dumleth Terrace, Coatbridge, N.B.; and H. Johnstone, Esq., Niddrie, Portobello, N.B.</p> <p>G. F. Dell, Esq., Belmont Crescent, Hillhead, Glasgow.</p> <p>J. B. Atkinson, Esq., Stocksfield, Newcastle-on-Tyne; and R. P. M. Oswald, Esq., Brigham.</p> <p>W. N. Atkinson, Esq., Shindliffe Hall, Durham; and J. Plummer, Esq., Bishop Auckland.</p>	<p>SCOTLAND, EAST DISTRICT, comprising Counties of Clackmannan, Perth, Kinross, Sutherland, Edinburgh, Fife, Haddington, Linlithgow, Upper and Middle Wards of Lanark, and part of Stirling.</p> <p>SCOTLAND, WEST DISTRICT, comprising Counties of Argyll, Ayr, Dumfries, Dumbarton, Renfrew, and portions of Lanark and Stirling.</p> <p>NEWCASTLE DISTRICT, comprising Counties of Cumberland, Northumberland, and part of Durham.</p> <p>DURHAM DISTRICT, comprising County of Westmoreland, part of Durham, and North Riding of Yorkshire.</p>

F. N. Wardell, Esq., Wash-upon-Dearne, Rotherham.	John Gerrard, Esq., Park View, Westgate, Wakefield; and J. Mallors, Esq., Leeds.	YORKSHIRE AND LINCOLNSHIRE DISTRICT, comprising Yorkshire, exclusive of North Riding and Lincolnshire.
Joseph Dickinson, Esq., South Bank, Pendleton, Manchester.	W. Saint, Esq., 24 George Street, Cheetham Hill, Manchester	MANCHESTER DISTRICT, comprising North and East Lancashire, and Ireland.
Henry Hall, Esq., Rainhill, Prescott.	J. L. Hedley, Esq., The Gables, Flookers Brook, Chester.	LIVERPOOL DISTRICT, comprising Counties of Anglesey, Denbigh, Flint, and West Lancashire.
A. H. Stokes, Esq., Greenhill, Derby.	W. H. Hepplewhite, Esq., Leicester; & W. T. Southern, Esq., 37 Rose Hill Street, Derby.	MIDLAND DISTRICT, comprising Counties of Derby, Leicester, Nottingham, and Warwick.
Thomas Wynne, Esq., Gnosall, Stafford.	A. R. Sawyer, Esq., Beasford, Stoke-on-Trent.	NORTH STAFFORDSHIRE DISTRICT, comprising North Staffordshire, Cheshire, and Shropshire.
W. B. Scott, Esq., Parkdale, Wolverhampton.	W. H. Fickering, Esq., Compton Road, Wolverhampton.	SOUTH STAFFORDSHIRE DISTRICT, comprising South Staffordshire and Worcestershire.
J. S. Martin, Esq., Durdham Park, Redland, near Bristol.	R. Donald Bain, Esq., Newport, Monmouthshire.	SOUTH-WESTERN DISTRICT, comprising the Counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan.
J. T. Robson, Esq., St. Helen's Road, Swansea.	E. W. Randall, Esq., Penarth, near Cardiff; and F. A. Gray, Esq., Neath.	SOUTH WALES DISTRICT, comprising Counties of Carmarthen, Pembroke, and parts of Brecon and Glamorgan.

UNOFFICIAL.

4. *List of Secretaries to District Examining Boards, and particulars of the Examinations.*

DISTRICTS.	Places where the Examination is usually held.	Time when usually held.	Month.	Names and Addresses of the Secretaries for the various Districts.
1. SCOTLAND, EAST DISTRICT, comprising Counties of Clackmannan, Perth, Kinross, Sutherland, Edinburgh, Fife, Haddington, Linlithgow, Upper and Middle Wards of Lanark, and part of Stirling.	Edinburgh.	May.	22	Robert Calder, Esq., 3 Fenny Place, Broughton Ferry, N.B.
2. SCOTLAND, WEST DISTRICT, comprising Counties of Ayr, Ayr, Dumfriesshire, Dumfries, Renfrew, and portions of Lanark and Stirling.	Glasgow.	November.	21	Stewart Foulis, Esq., 135 St. Vincent Street, Glasgow.
3. NEWCASTLE DISTRICT, comprising Counties of Cumberland, Northumberland, and part of Durham.	Newcastle-on-Tyne.	January.	22	Fred. Gosman, Esq., Coal Trade Office, Newcastle-on-Tyne.
4. DURHAM DISTRICT, comprising County of Westmoreland, part of Durham, and North Riding of Yorkshire.	Darlington.	July.	21	George Bartlett, Esq., Tees Cottage, Darlington.

5. YORKSHIRE AND LINCOLNSHIRE DISTRICT, comprising Yorkshire, exclusive of North Riding and Lincolnshire.	Leeds	June.	23	John R. Jeffrey, Esq., solicitor, 5 Piccadilly, Bradford.
6. MANCHESTER DISTRICT, comprising North and East Lancashire and Ireland.	Wigan.	June.	22	M. W. Place, Esq., 18 King Street, Wigan.
7. LIVERPOOL DISTRICT, comprising Counties of Anglesey, Denbigh, Flint, and West Lancashire.	Manchester	December.	21	M. W. Place, Esq., 18 King Street, Wigan.
8. MIDLAND DISTRICT, comprising Counties of Derby, Leicesters, Nottingham, and Warwick.	Levy.	October.	23	W. Sammler, Esq., 67 Wilson Street, Derby.
9. NORTH STAFFORDSHIRE DISTRICT, comprising North Staffordshire, Cheshire, and Shropshire.	Newcastle under Lyme.	June	22	Joseph Knight, Esq., Newcastle under Lyme, Staffordshire.
10. SOUTH STAFFORDSHIRE DISTRICT, comprising South Staffordshire and Worcestershire	Wolverhampton	January	22	W. Pickmore, Esq., Sheffield, near Walsall.
11. SOUTH-WESTERN DISTRICT, comprising the Counties of Devon, Dorset, Gloucester, Monmouth, Somerset, and portions of Brecon and Glamorgan.	Bristol.	July	21	J. J. Thomas Esq., Tont House, Cardiff.
12. SOUTH WALES DISTRICT, comprising Counties of Carmarthen, Pembroke, and parts of Brecon and Glamorgan.	Cardiff.	January	21	C. H. James, Esq., of Cardif Tunnac, Merthyr-Tydfil.

4. **5. Specimen Examination Papers for Certificate of Competency as Manager, set under Coal Mines Regulation Act, 1872.**

No. 1. SET AT NORTH AND EAST LANCASHIRE EXAMINATION.

Coal Mines Regulation Act.

1. In what words does the Act make the ventilation of mines compulsory?
2. If a fireman finds gas in a place when making his examination, and removes it, does the Act require him to report its presence?
3. State all you know of the registers required to be kept in or about a mine.
4. What is required to be done in case gas prevail in a mine to such an extent as to make it dangerous?

Atkinson's Treatise on Ventilation.

1. Suppose an airway, passing 20,000 cubic ft. of air per minute; what will be the increased quantity, after putting in an additional airway of the same dimensions, the power and extent of the workings remaining unaltered?
2. What is the horse-power expended when the ventilation current is 30,000 cubic ft. per minute, and the water-gauge is 0.65 in.?
3. Give the names of the principal gases met with in coal mines, and place them according to their weights?
4. Describe the water-gauge and how it is used; also the barometer, thermometer, and anemometer.
5. A door is 6 ft. by 5 ft. and the water-gauge fixed on it shows $1\frac{1}{2}$ in.; what is the total pressure upon the door?

Practical Working of Collieries.

1. On reaching a fault in the workings, it is found first in the floor; is it likely that the coal beyond will be found down or up?
2. How would you ventilate the bottom of an upcast shaft without the return air passing it?
3. What effects has the furnace upon metal tubbing in the upcast shaft, and how would you prevent them?

4. Give a sketch of some system of working a mine, showing the direction of the air currents the down, return, top, and air-crossings.
5. Describe the Davy, Clanny, Mueschler and Manaut lamps, and say which you consider the best, or best.
6. A mine is very dusty; what precautions could you take?

Mechanics.

1. What are the advantages or otherwise of conical drums for winding?
2. Two round winding ropes have stretched unequally; how do you alter the chase?
3. Describe the method adopted for examining winding ropes, and give a sketch of what you consider the best method of securing the cap to a round winding rope.
4. How many cubic ft. of water would an engine 100 indicated horse-power raise per minute from a depth of 25 fathoms?
5. What means are adopted to prevent expansion and contraction tearing the flue plates of a Lancashire boiler at the seams?

Viva voce questions.

No. 2. SET AT WEST LANCASHIRE AND NORTH WALES DISTRICT EXAMINATION.

Elementary Education and Ventilation.

1. What is the theoretical quantity of air that should be drawn out of a shaft per minute by a Struvé ventilator with two anerometers, each 20 ft. in diameter, with a 10 ft. stroke, each doing ten strokes per minute?
2. In ventilating a single drift by a battic which is to be placed 2 ft. from one side of the drift and 4 ft. from the other, on which side would you take in the fresh air? Give your reasons.
3. Suppose it necessary to reverse the ventilation of a colliery, ventilated by a furnace, by making the downcast into the upcast and the upcast into the downcast; describe the arrangements you would make and the process of making the change.
4. What are the principal preparations to make for dividing a current of air into two splits?

5. Ventilate the workings on the annexed diagram of a fiery mine.

The Principles of Mechanics and Machinery.

6. At what temperature is water converted into steam?
7. Should boilers be set level, or otherwise? Give your reason.
8. Describe underground haulage by tail ropes and by endless chains or ropes.
9. At a colliery, ventilated by a fan, the quantity of air exhausted is 200,000 cubic ft. per minute, and the water-gauge 3 in. ; what is the effective horse-power?
10. A piece of timber, 12 ft. long, 8 in. broad, and 4 in. thick, is supported at its extremities ; in what way, laid upon the supports, will it carry the greatest weight suspended from the centre, and what would be the proportion between the weight carried in one way to that carried in the other.
11. State the requirements of the Mines Regulation Act with respect to steam boilers, ropes, chains, and machinery.
12. Make a sketch of a double-acting ram pipe to force 500 gallons of water per minute up a shaft, giving diameter of ram, length of stroke, and number of strokes per minute.

Mine working.

13. How can dangerous accumulations of gas be prevented in the goaves of a seam worked on the pillar and stall system, and dipping 1 in 6?
14. How would you proceed to re-open a very heavily and closely-fallen level in a coal seam?
15. What is meant by ascensional ventilation? State the circumstances under which it is most desirable.
16. Describe the effect produced when pillars of coal are left of insufficient dimensions.
17. Supposing that at the depth of 8 ft. beneath the surface a bed of quicksand, 3 ft. thick, has been put through in a shaft, that the pit has been at work several years, but that owing to bad walling, and in wet weather water spurts from the walling bringing sand with it, what results would you anticipate, and generally what course would you adopt to prevent the mischief?
18. Describe, with a sketch, the safety lamp you consider best for use in a mine where the ventilating current travels at

a considerable velocity, and which is liable to sudden outbursts of gas. State the principles on which the safety of the lamp you describe depends, and say why you think it is the best lamp for use in the conditions named.

19. State the requirements of the Coal Mines Regulation Act as to gunpowder and blasting, and the precautions which should be observed, and the materials which should be used in stemming or ramming a shot in firing the same.

Timbering.

20. Describe the mode of driving and timbering a road through an old goaf.
21. Describe the process of making a wooden crib or ring of the inside diameter of 12 ft., the crib to be 8 in. in the bed and 5 in. in height.
22. State the precautions to be used in the making and setting of an air-door.

Surveying.

23. Give a copy of a page of a survey-book recording an imaginary under-ground survey.
24. How may you approximately ascertain the date of the workings on an old undated plan?
25. In working to the full rise of a seam of which the inclination is 1 in 12, you meet with a rise fault of 10 yards, what will be the length of a rise tunnel to be driven at the inclination of 1 in 6 between the seam at the low side of the fault, and the seam on its rise side, supposing the fault to be vertical?

Shafts.

26. Describe, with a sketch, a bricking scaffold for use in a sinking pit. State how you would raise, lower, and suspend it when in use, and what you would do with it when not in use.
27. How would you fix and support bricking rings and water-rings?
28. Describe fully the process of blasting in a sinking pit, and the precautions to be observed.

Note.—These examination papers appeared in *The Colliery Guardian* of 26th August, 1887, from which they are reproduced here by permission of the publishers.

See §§ 8, 33,
and Sched. III.

6. *Form of Record of total number of Mule Persons
above the age of 16, ordinarily employed daily
above ground, and also below ground, Sections
8, 33, and Schedule III.*

COAL MINES REGULATION ACT, 1887
(50 & 51 VICT. C. 58).

(Name of Mine).....

(Name of Manager).....

18 .

	Above Ground.	Below Ground.		Above Ground.	Below Ground.		Above Ground.	Below Ground.
Jan. 1			Feb. 1			Mar. 1		
2			2			2		
3			3			3		
4			4			4		
5			5			5		
6			6			6		
7			7			7		
8			8			8		
9			9			9		
10			10			10		
11			11			11		
12			12			12		
13			13			13		
14			14			14		
15			15			15		
16			16			16		
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22			22			22		
23			23			23		
24			24			24		
25			25			25		
26			26			26		
27			27			27		
28			28			28		
29			29			29		
30						30		
31						31		

Note.—This Form should include all persons employed, whether directly by the owner, or indirectly by any contractor, miner, or other person. Persons employed above ground on sidings, and private branch railways and tramways, and in cleaning, washing, and coking of coal, are also to be included.

The official register provides for a record of all other persons employed.

The remaining months of the year will be continued as above.

7. *Form of Joint Representation to Secretary of State* Sec 12
for exemption of Mine (not employing more
than thirty Persons under ground, from Pro-
visions requiring Wages to be paid by Weight
under Section 12 of the Act.

(Name of Mine) .

(Address) ..

(Date) .

To The Right Hon. the Secretary of State, }
 Home Office,
 Whitehall, London. }

Coal Mines Regulation Act, 1887.

SIR,—In terms of section 12, sub-section (3) of this Act, we beg to apply for an order of exemption from the provisions of the Act requiring the wages to be paid according to weight. We have to request that you will in future allow the wages at this mine to be paid according to *(state method desired, such as measure or gauge)*, or by such other method as may be agreed on between the owner and workmen.

This application is rendered necessary owing to the difficulty and inconvenience occasioned by the enforcement of the weighing provisions at this mine, which cause *(state cause of difficulty and inconvenience)*.

There are only persons *(state number)* employed under ground in this mine, and at a meeting of these persons held on *(give date)* it was unanimously resolved to make this application, and the subscriber *(state name of preses of meeting)* was instructed, as preses of the meeting, to subscribe this representation. The minute of the meeting referred to is herewith enclosed.

We are,

Your obedient Servants,

(Signature)

(Name,

(")

Preses of Meeting of Workmen.

See §§ 16, 17,
18.

8. *Form of Application for Exemption from
provision as to Double Shafts, and dimer
Shafts, under Section 18 of the Act.*

(Name of Mine)

(Address)

(Date)

To The Right Hon. the Secretary of State,
Home Office,
Whitehall, London. }

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act I beg to apply for an exemption from the provisions of section 16 of the Act in it requires (*specify requirements from which exemption* This exemption is required on account of (*state reason*) as under the case described in sub-section (*give number*) (*specify*) of section 18 of the Act.

An exemption is also desired from the provisions of with reference to the dimensions of the communication the two shafts or outlets of (*specify mine*) as such mine not reasonably practicable in this mine owing to the seams (*or other exigencies*) which are only (*specify the seams*). The dimensions practicable, and for which you is desired are as follows:—(*specify proposed dimensions*).

I shall be pleased to furnish any further information if

I am,

Your obedient Servant,

(Signature).....

9. *Form of Application for Division of Mine into parts,* *see § 19.*
under Section 19 of the Act.

(Name of Mine).....

(Address).....

(Date).....

To..... Esq.,
 H.M. Inspector of Mines,
 (Address).....

Coal Mines Regulation Act, 1887.

SIR,—I beg to give you notice, in pursuance of section 19 of the above Act, that (*give number and particulars of parts*) of this mine (*or name of mine*) are worked separately, and that it is expedient that each such part should be deemed a separate mine, under the following names (*specify names of parts*).

I am,

Your obedient Servant,

(Signature).....

Manager.

(*or Owner or Agent.*)

Note.—See also Form of intimation of nomination of manager, *infra*.

10. *Form of Notice declining to acquiesce in objections* *see § 19.*
by Inspector to Division of Mine into parts,
under Section 19 of the Act.

(Name of Mine).....

(Address).....

(Date).....

To..... Esq.,
 H.M. Inspector of Mines,
 (Address).....

Coal Mines Regulation Act, 1887.

SIR,—In reply to your intimation objecting to the division of this mine into parts, I beg to give you notice that I decline to acquiesce in your objections.

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

— — — — —

See § 20.

11. Form of Notice of Nomination of Manager under Section 20 of the Act.

(Name of Mine)

(Address)

(Date)

To.....Esq.,
H.M. Inspector of Mines,
(Address).....)

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that I have to-day nominated (*give name and address*) as manager of this mine (*or name of mine*).

I am,

Your obedient Servant,

(Signature)

Owner (or Agent.)

12. *Form of Notice of Explosion or Accident to be sent* Sec. 5.
to the Inspector of the District, under Section
35 of the Act.

(Name of Mine)
 (Address)
 (Date)

To Esq.,
 H.M. Inspector of Mines,
 (Address))

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that an explosion (or accident), occurred in the (*insert place*) at this mine on (*insert date*) of which the following are the particulars:—

1. Character of explosion (or) 1.
 accident. }
2. If explosion, whether from) 2.
 gas, any explosive, or
 any steam boiler. }
3. Number of persons killed. 3.
4. Number of persons seriously) 4.
 injured. }
5. In case of explosion, num-) 5.
 ber of persons slightly
 injured. }

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

Note.—Where any personal injury results in the death of the person injured, notice of the death must also be sent to the inspector within twenty-four hours after it comes to the knowledge of the owner, agent, or manager.

See § 36. **13. Form of Notice of opening New Shaft or Seam, under Section 36 of the Act.**

(Name of Mine)

(Address)

(Date)

To.....Esq.,
H.M. Inspector of Mines,
(Address).....

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that on (date) a working was commenced for opening a new shaft for (or a seam of) this mine (or specify mine).

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

See § 36. **14. Form of Notice of Abandonment or Discontinuance of Shaft or Seam, under Section 36 of the Act.**

(Name of Mine)

(Address)

(Date)

To.....Esq.,
H.M. Inspector of Mines,
(Address).....

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that on (*date*) a shaft (*or seam*) of (*state name of mine*) was abandoned, or the working thereof discontinued.

I am,

Your obedient Servant,

(*Signature*).....

Manager.

(*or Owner or Agent.*)

— — — — —

15. *Form of Notice of Recommencement of Shaft or Seam after any Abandonment or Discontinuance for more than two months, under Section 36 of the Act.* See § 36.

(*Name of Mine*)

(*Address*)

(*Date*)

To.....Esq.,

H.M. Inspector of Mines,

(*Address*).....

}
}
}

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that the working of (*specify shaft or seam*) was recommenced on (*date*). The shaft (*or seam*) in question was abandoned or discontinued on (*date*).

I am,

Your obedient Servant,

(*Signature*).....

Manager.

(*or Owner or Agent.*)

See § 16.

16. Form of Notice of Change in Name of Mine, or in name of Owner, Agent, or Manager of Mine, or in the Principal Officers of incorporated Company, under Section 36 of the Act.

(Name of Mine)
 (Address)
 (Date)

To...Esq.,
 H.M. Inspector of Mines,
 (Address)..... }

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of this Act, I beg to give you notice that the name of (*state whether of mine, or of owner, agent, or manager, or principal officers of incorporated company*) is now (*state new name*), since (*date of change*), instead of (*state former name*), as formerly.

I am,

Your obedient Servant,

(Signature).....

Manager.

(or Owner or Agent.)

See § 39.

17. Form of Notice declining to Remedy a matter of Complaint by an Inspector, under Section 39 of the Act.

(Name of Mine)
 (Address)
 (Date)

ToEsq.,
 H.M. Inspector of Mines,
 (Address)..... }

Coal Mines Regulation Act, 1887.

Sir,—In reply to your notice of complaint under Section 12 of this Act, I beg to give you notice that I object to remedy the matter of complaint referred to.

I am,

Your obedient Servant,

(Signature).....

Manager.

(or Owner or Agent.)

18. *Form of Notice of Appointment of Arbitrator,
under Section 47 of the Act.*

See § 17

(Name of Mine)

(Address)

(Date)

To.....Esq.,
H.M. Inspector of Mines, }
(Address)..... }

Coal Mines Regulation Act, 1887.

Sir,—In reference to the matter of difference as to (*state matter of difference*), I beg to give you notice that I have appointed (*give name, occupation, and address of arbitrator*), as arbitrator on my behalf.

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

**19. Forms of Reports required by the General Rules, under
Section 49 of the Act.**

§ 49, Gen.
e 1.

**(a.) REPORT OF MEASUREMENT OF AIR IN SPLITS OR CURRENTS
REQUIRED BY SECTION 49, GENERAL RULE 1.**

(Name of Mine)..... (Name of Manager).....

18.....	Name of Seam.	Number of Splits.	Quantity of Air in each Split, in cubic feet per minute.
January...	2 $\frac{1}{1}$
February..
March.....
April.....
May.....
June.....
July.....
August....
September
October...
November
December..

- (b.) REPORT AS TO INSPECTION BEFORE COMMENCING WORK, AS REQUIRED BY SECTION 19, GENERAL RULE 1. See § 49, Gen. Rule 4.

(Name of Mine)
(Date)

Coal Mines Regulation Act, 1887.

I report that, as required by section 19, General Rule 1, of the above Act, I have, between the hours of and (state hours, and whether a.m. or p.m.), examined (add, with a locked safety-lamp, where inflammable gas has been found in the mine during the preceding twelve months), every part of the mine situated beyond the appointed station at the entrance to the mine (or specify station where more than one), in which workmen are to work or pass during the shift commencing at (state hour, and whether a.m. or p.m.), and I found present (add, no, or if otherwise, specify what and where found present)

Noxious or inflammable gas.....
Defects in roofs or siles
Other source of danger.....

(Signature)

- (c) REPORT AS TO INSPECTION DURING SHIFT WHERE MINE WORKED CONTINUOUSLY FOR TWENTY-FOUR HOURS, AS REQUIRED BY SECTION 49, GENERAL RULE 4, SUB-HEAD 2. See § 49, Gen. Rule 4.

(Name of Mine)
(Date)

Coal Mines Regulation Act, 1887.

I report that, as required by section 49, General Rule 4, sub-head 2, of the above Act, I have, between the hours of and (specify time, and whether a.m. or p.m.), and in the

course of the shift which commenced at (state hour, and whether a.m. or p.m.), examined (add, with a locked safety-lamp, where inflammable gas has been found in the mine during the preceding twelve months), all parts of this mine in which workmen are to work or pass during that shift, and I found present (add, no, or if otherwise, specify what and where found present)

Noxious or inflammable gas... ..
 Defects in roofs or sides
 Other source of danger.....

(Signature)

as § 49, Gen. Rule 5. (d.) DAILY REPORT OF INSPECTION OF MACHINERY, &c., ABOVE AND BELOW GROUND, REQUIRED BY SECTION 49. GENERAL RULE 5.

(Name of Mine)

(Date)

Coal Mines Regulation Act, 1887.

I report that, as required by section 49, General Rule 5, of the above Act, I have examined the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the headgear, ropes, chains, and other similar appliances of this mine, which are in actual use, both above ground and below ground, and that I find them safe and in proper working order with exception (add, without exception, or if otherwise, specify exceptions).

(Signature)

- (e) WEEKLY REPORT OF INSPECTION OF SHAFTS, REQUIRED BY SECTION 49, GENERAL RULE 5. Sec 49, Gen. Rule 5

(Name of Mine)

(Date)

Coal Mines Regulation Act, 1887.

I report that, as required by section 49, General Rule 5, of the above Act, I have examined the state of the shafts of this mine by which persons ascend and descend, and that I find them (*state conditions as, in proper working order*).

(Signature)

- (f) REPORT AS TO INSPECTION OF MINE ON WITHDRAWAL OF WORKMEN IN CASE OF DANGER, AS REQUIRED BY SECTION 49, GENERAL RULE 7. Sec 49, Gen. Rule 7

(Name of Mine)

(Date)

Coal Mines Regulation Act, 1887.

I report that, as required by section 49, General Rule 7, of the above Act, I have examined (*add, with a locked-safety lamp, when danger arises from inflammable gas*) this mine (*or specify part of mine*) which was found dangerous. I find that the danger arose from (*state cause*). I further find that the danger has now (*or not*) been removed, that the mine is safe (*or unsafe*), and that the workmen can (*or cannot*) be readmitted.

(Signature)

See § 49, Gen. (g.) **REPORT OF INSPECTION OF MINE ON BEHALF OF**
 Rule 38. **UNDER SECTION 49, GENERAL RULE 38.**

(Name of Mine)

(Date)

Coal Mines Regulation Act, 1887.

In terms of section 49, General Rule 38, of the abo
 beg to report that, having been appointed by persons on
 this mine to make an inspection of the mine on their
 have examined (*add, in company with the manager, or*
may be) the shafts, levels, planes, working places, retu
 ventilating apparatus, old workings, and machinery of
 and find them safe and in proper order with exce
without exception, or if otherwise, specify exceptions).

(Signature)

(Address)

(Signature)

(Address)

See § 49, Gen.
 Rule 12 (b).

20. Form of Application for Exemption fr
sions requiring an Explosive Substa
taken into a Mine in Cartridges, unde
49 of the Act, General Rule 12 (b).

(Name of Mine)

(Address)

(Date)

To The Right Hon. the Secretary of State, }
 Home Office, }
 Whitehall, London. }

Coal Mines Regulation Act, 1887.

SIR,—I beg to apply to you for an order exem
 mine from so much of the General Rule 12 of the ab

forbids taking an explosive substance into the mine except in cartridges.

This mine is free from (*state whether free from gas and dust*)
The explosive used is (*state nature of explosive*), and the average
number of shots fired per day is about (*state number*). I shall be
pleased to furnish any further information required.

I am,

Your obedient Servant,

(*Signature*)

Manager.

(or *Owner or Agent.*)

21. Form of Notice to Workmen to be posted up with See § 52
proposed Special Rules, under Section 52 of
the Act.

NOTICE

Coal Mines Regulation Act, 1887.

(50 & 51 Vict. c. 58.)

Notice is hereby given that the foregoing rules are a copy of the
proposed Special Rules for this mine. Any objection to the rules
on the ground of anything contained therein, or omitted therefrom,
may be sent by any of the persons employed in the mine to the
inspector of the district, at his address as stated in this notice.

(*Name of Mine*).....

(*Date*)

(*Inspector of the district*).

(*Address*)

(*Manager*).....

(or *Owner or Agent.*)

Sec § 52.

22. Form of Certificate of Publication of proposed Special Rules and Notice to Workmen, under Section 52 of the Act.

(Name of Mine)
 (Address)
 (Date)

Coal Mines Regulation Act, 1887.

I hereby certify that, in pursuance with the above Act, the foregoing proposed Special Rules and printed Notice with the name of the mine, and the name and address of the inspector of the district, and the name of the manager (*or owner or agent*) have, for not less than two weeks prior to this date, been posted up in legible characters in a conspicuous place at the mine, where they could be conveniently read by the persons employed.

(Signature).....
 (Person transmitting Rules.)

Sec § 52.

23. Form of Notice sending Draft of Special Rules for approval of Inspector, under Section 52 of the Act.

(Name of Mine)
 (Address)
 (Date)

To.....Esq.,
 H.M. Inspector of Mines,
 (Address).. .. }

Coal Mines Regulation Act, 1887.

SIR,—In pursuance of section 52 of the above Act, I beg to send you herewith:—

- (1.) Two copies of the proposed new Special Rules for this mine.

- (2.) Printed notice to workmen, posted up with proposed Special Rules.
- (3.) Certificate by me of the publication of the proposed Special Rules and Notice.

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

24. *Form of Notice objecting to Modifications proposed* See § 53.
by Secretary of State on new Special Rules,
under Section 53 of the Act.

(Name of Mine)

(Address)

(Date)

To The Right Hon. the Secretary of State,)
 Home Office,)
 Whitehall, London.)

Coal Mines Regulation Act, 1887.

Sir,—In pursuance of the above Act, I beg to give you notice that I object to the modifications proposed by you on the new Special Rules for this mine.

I am,

Your obedient Servant,

(Signature)

Manager.

(or Owner or Agent.)

I N D E X

INDEX.

	PAGE
A	
Abandoned Mine or Seam—	
Notice to be given of abandon- ment,	65, 168
Also of recommencement,	65, 169
Plan to be sent to Secretary of State,	68
Return to be sent to inspector,	69
Fencing of shafts and side entrances,	68
Agreements not to preclude compliance,	66
When a nuisance,	67
Application of Public Health Act to,	67
Penalty on non-compliance, with provisions as to,	66, 69
Above Ground—	
Who may be employed,	17, 137
Regulations as to boys, girls, and women,	17
Register of boys, girls, and women to be kept,	19, 147
Penalty for employment in con- travention,	20, 124
Accommodation to be provided where girls and women em- ployed,	130
See Employment.	
Absence of Check-weigher—	
Not a reason for impeding or interrupting the weighing,	29

Absence of Check-weigher,	PAGE
<i>continued—</i>	
Nor the determination of de- ductions,	29
Unless understanding to the contrary,	29
Weighing, of mineral and deter- mination of deductions may be done by owner's repre- sentative during,	29
Abstract of Act—	
Printed copy to be posted up with special rules,	11
Also to be furnished gratis to workmen,	119
Penalty on non compliance,	119
Penalty on pulling down or defacing,	119
Accidents—	
Notice of explosion or accident, 62, 167	
When to be given,	63
To whom sent,	63
Place of accident to be left un- disturbed,	63
When so required, and for what period,	63
Notice of death resulting from accidental injuries,	63, 167
When to be given,	63
To whom sent,	63
Penalty on non-compliance,	63
Special report by inspector as to,	75

	PAGE		PAGE
Accidents, continued—		Adjournment, continued—	
Formal investigation as to, . . .	76	Does not it majority of jury think it unnecessary, . . .	83
Application of fines in respect of,	128	Court may adjourn proceedings for punishing offence where works being carried out,	74
In Scotland notice to inspector deemed to be sent on behalf of Lord Advocate, . . .	133	Court may adjourn case of offence to enable proceedings to be taken under another Act,	127
Accommodation—		Age—	
Where girls and women are employed,	130	When boys may be employed below ground,	15, 137
What to be provided,	130	When boys and girls may be employed above ground, . . .	17, 137
Application of Public Health Act,	130	Of enginemen in charge of machinery for lowering and raising persons, . . .	104, 137
Acts of Parliament—		Of person in charge of other engines and machinery, . . .	105
Date of passing of this Act, . . .	13, 14	Of applicants for certificates of competency,	156
Date of commencement,	14	Misrepresentation of age, . . .	124
Acts repealed,	13, 133, 144	Agent—	
Application of this Act,	14	Interpretation of term,	132
20 Geo. II. c. 43,	127	May be appointed to Board for regulating examinations for certificates of competency, . .	49
6 & 7 Will. IV. c. 14,	134	Disqualified from acting as inspector,	71
Petty Sessions (Ireland) Act, 1851,	134	May attend in person,	81
14 & 15 Vict. c. 90, Mines Act (Ireland), 1851,	129	Miner's agent disqualified from acting as Justice, &c., in proceedings under the Act, . .	127
27 & 28 Vict. c. 53, Summary Procedure Act, 1864,	126	Except with consent,	128
30 & 31 Vict. c. 100, Public Health (Scotland) Act, 1867, . .	68, 131, 133	Liabilities of agent,	21, 22, 24, 112, 113, 120.
35 & 36 Vict. c. 77, Metalliferous Mines Regulation Act, 1872,	15, 71, 129	Agreements—	
Education (Scotland) Act, 1872 to 1883,	17, 133	As to deductions from gross weight of mineral gotten, . .	24, 26
38 & 39 Vict. c. 55, Public Health Act, 1875, 67, 130, 133, 134		Not to preclude compliance with provisions against single shafts,	41
Summary Jurisdiction Acts, . . .	121, 122, 123, 127.	Or fencing of abandoned mine, . .	66
41 & 42 Vict. c. 40, Weights and Measures Act, 1878, . . .	36, 37, 38.	Or removal of cause of danger, . .	74
41 & 42 Vict. c. 51, Public Health (Ireland) Act, 1878, . .	68, 131, 134.		
Adjournment—			
Coroner to adjourn inquest unless inspector present,	53		

	PAGE		PAGE
Air—		Annual Return, continued—	
Quantity in splits or current, . . .	96	Inspector to furnish form, . . .	59
When to be measured, . . .	86	When particulars of Part B	
Measurements to be entered in		unnecessary, . . .	59
a book, . . .	86, 172	Publication and inspection of, . .	59
Return air to be carried off		Penal enactment, . . .	(6)
clear of ventilating fire, . . .	87		
When so required, . . .	87	Apparatus—	
Means to be adopted, . . .	87	For lowering and raising per-	
Safety lamps to be constructed		sons at each shaft, . . .	39
to carry safely against in-		To be kept on the work at the	
flammable air currents, . . .	92	mine, . . .	39
Lamp station not to be in the		If not in actual use at the shafts,	
return air, . . .	94	to be kept constantly avail-	
		able, . . .	39
Air Course—		Where same in use at downcast	
Main intake, . . .	97	and furnace-shaft, miners to	
Main return, . . .	97	have option of using down-	
Air Currents, . . .	86, 92	cast shaft, . . .	101
<i>See</i> Air and Air-way.		But must give reasonable notice, .	101
Air Shaft—		Winding apparatus, . . .	106
Top of, to be securely fenced, . .	103	Ventilating apparatus may be	
Air-way—		periodically inspected on be-	
When required for carrying off		half of workmen, . . .	110
return air clear of ventilating		Prohibition against apparatus	
fire, . . .	86, 87	for striking light, . . .	93
Circumstances in which coal		Appeal against Conviction—	
not to be worked with naked		In England and Ireland, . . .	123
lights in part of ventilating		In Scotland, . . .	126, 127
district adjoining, . . .	92	Appendix, . . .	145
Independent return, . . .	97	Application of Act, . . .	11
Return air-ways may be in-		Appointments—	
spected on behalf of work-		Of check-weigher, . . .	28, 31, 34
men, . . .	110	Of weigher on behalf of owner, .	29
Length of splits and sectional		Of manager of mine, . . .	11
area required by annual re-		Of under-manager, . . .	17
turn, Part B, . . .	143	Of board for appointing exa-	
Ambulances—		miners, . . .	49, 135, 119
Or stretchers to be kept at the		Of examiners for granting cer-	
mine, . . .	108	tificates of competency, . . .	50
Also splints and bandages, . . .	108	Of inspectors, . . .	70, 135
To be ready for immediate use, .	108	Of inspectors in Wales and	
Amendment of Special		Monmouthshire, . . .	70
Rules, . . .	117	Of arbitrators and umpire, 78, 79, 80	
Annual Return—		Of persons required by the	
Form of, . . .	141	general rules, 87, 88, 90, 91, 93, 95,	
When to be made, . . .	58	101, 110.	

Appointments,		Arbitration—	
Of person to hold interest in		Provisions as to arbitration	8
as to person or class	7	Matters to be decided	8
Of assessor,	10	Division of mine into parts,	41
		Object as to each part	
		complaints to be made	7
		Objections to special rule	1
		Appointment of arbitrator	71
		Who must be appointed,	7
		Death of arbitrator,	71
		Appointment of umpire	80
		Who must be appointed	8
		Hearing to be at same time before	
		fore arbitrators and umpire	81
		Death of umpire,	80
		Payment of arbitrator	
		umpire,	81
		Costs of arbitration	81
Assessor—			
May be appointed to assist at			
inquiry into competency of			
manager,	71		
Also if investigation is to be			
provision or accident	76		
Remuneration of,	6 77		
Attendance—			
Of engineman while any person			
is below ground,	104		
Automatic Contrivance—			
To be provided for winding			
apparatus,	106		
When necessary,	106		
Cage to be raised at limited			
speed where such contrivance			
not provided,	106		
Award—			
Must be made by single arbitra-			
tor within twenty-one days			
after his appointment,	80		
Time may be extended where			
more than one arbitrator	80		
Death of arbitrator or umpire			
before award	79, 80		
		Ball Bearings in Stratified	
		Bedrocks,	11
		Ballot—	
		As to	
		responsibility for	
		death of person of	
		check on	34
		Return of check	34
		See also	4, 55
		Case of check when	
		joint liability	5
		Whether responsibility of	
		accident by fall from	
		mine shaft	6
		Bandages—	106
		See also	
		Barometer—	
		To be provided,	106
		Where to be placed	106
		Baskets of Mineral—	
		Where improperly filled	24
		Amount of deduction,	24
		Below Ground—	
		Who may be employed	17, 17
		Regulations as to employment	16
		Register of persons employed	
		to be kept at the mine,	19, 117
		Immediate employer to report	
		employment of boy to mana-	
		ger,	20
		Penalty for employment in con-	
		travention	20
		See Employment	

Billy Fairplay, See Weighing Machine	PAC 26 37
Blasting, See also Shot firing	1
Board of Examiners—	
Constitution of	11 13 14
Regulations for procedure	19
Powers of	50
List of District Boards,	14 156
Secretaries to District Boards	11
16	
Number and remuneration of examiners	52
Removal of examiner by Secre- tary of State,	19
Boilers—	
Necessity to explosion of, when required,	1
To have each safety valve, and steam and water gauge	107
Workmen in attendance in day and night place during shot firing,	96
Boiler Gallery—	
To have two travelling ways into same,	102
Books—	
For what required,	105, 10, 172
To be kept in office of mine,	105
Period for which they require to be kept,	109
May be partly in print and partly in writing,	109
Who may inspect and copy books,	105
Boreholes—	
When and where required,	101
Boys—	
Interpretation of term "boy"	132
Under twelve,	1, 17, 137
Between twelve and sixteen,	16, 17
Regulations as to employment,	16, 17
Hours and period of employ- ment,	16, 17

Boys, c	
Regulation for	1, 17
Penalty for	1
Wages	1
Ministry of	1
Penalty for	1
See Employment	
Break and Inco	
When and where	101
Penalty for	101
C	
Cage—	
Winding of when mine	101
When and where	101
Limit of speed when	101
Rate of construction	101
Overwind	101
Thick cover over	101
Locality	101
Chamber of	101
Cancellation of Certificate	
In case of	101
When and where	101
Cancellation of	101
Secretary of State	101
Cancellation of	101
Any such	101
When and where	101
Candidates	
For certificates of competency	101
50, 102	
Qualifications required	101
Examinable,	101, 102
For certificate of	101
Qualifications required	101
Examinable,	101, 102
For appointment as	101
Ministry of	101
See Certificates of competency	
Cartridges—	
Not to be taken into mine	101
Except in	101
Secretary of State has power to exempt from this prohibition,	101

PAGE	PAGE
Case or Canister—	Certificated Managers
Cartidges only to be taken into	<i>Manager.</i>
mine secured in, 94	Every mine to be under a
Exceptions, 97	manager, 14
But Secretary of State may ex-	Exceptions, 15
empt from such provision, . . . 94	All reasonable means taken,
Not to contain more than five	&c., 15
pounds, 94	No person qualified, 15
Workman only to have one case	Only thirty persons employed
or canister in use, 94	below ground, unless in-
Casing—	specter requires one, 15
Of working and pumping shaft	Penalty on working mine with-
where natural strata unsafe, . . 103	out manager, 14, 15
Wilful damage to casing, . . . 105	Manager must be registered as
Certificates—	holder of first-class certifi-
First and second class certi-	cate of competency, 44
ficates of competency, 19	Or certificate of competency or
Qualifications required, 50, 51	service granted under pre-
Practical experience requisite, 49, 50,	vious Acts, and in force
52.	immediately prior to 1st
Fees payable, 52, 110, 152	January, 1884, 135
Certificates of competency or	Duties of certificated manager, 10, 17
service granted under former	Responsibilities, 10, 17
Acts, and in force imme-	Contractor disqualified, 49
diately prior to 1st January,	Inquiry into competency of, . . 53
1888, deemed first-class certi-	<i>Under-Manager.</i>
ficates, 135	Must be holder of first or
Board for appointing examiners	second class certificate of
for granting certificates, . . . 10	competency, 17
Service certificate granted under	Or certificate of service, 136
this Act equivalent to second-	Duties of under-manager, . . . 15
class certificate of compe-	Responsibilities, 18
tency, 136	Contractor disqualified, 49
Fees payable, 136, 110, 153	Inquiry into competency of, . . 53
To whom to be granted, 135	Chains —
Cancellation or suspension of	Included in daily inspection of
certificates, 53	machinery, 100
Renewal or restoration, 56	Distance between man-holes in
Lost certificate, 57	travelling planes where tubs
Fee for copy, 57, 110	moved, by endless chain or
Expenses of Secretary of State	rope, 101
as to certificates, 57	Age of person in charge of
How to be defrayed, 57	chains connected with engine,
Offences as to, 58	&c., 105
Forging, counterfeiting, mak-	Single linked, not to be used
ing false statements, 58	for lowering or raising per-
Uttering or using forged cer-	sons, 106
tificate, 58	
See Examination.	

	PAGE
Chains, continued—	
Exception,	106
Penalty on wilful damage of chain,	108
Change—	
In name of mine to be intimated to inspector,	65, 170
Also change in name of owner, agent, or manager,	65, 170
Or in principal officers of incorporated company owning mine,	65, 170
Charging—	
Iron or steel pricker, scraper, charger, tamping rod, or stemmer prohibited,	94
Also coal or coal dust for tamping,	94
Charge not to be unrammed,	94
New charge not to be set within six inches from where a previous charge has missed fire,	94, 95
Check-weigher—	
Appointment of,	28, 31
Where he may be stationed,	28, 31
Duties of,	28, 32
Facilities to be afforded,	29, 32
Absence of,	29
Grounds for removal of,	30, 33
Procedure in removal of,	30, 121
Remuneration of,	28, 34, 35
Who liable for wages of,	35
Dismissal of, by workmen,	36
How majority to be ascertained,	34
Case where no ballot,	35
Optional to employer to retain agreed-on contribution,	34
Penalty on impeding or interrupting,	31
Clay Seams—	
When excepted from provision requiring explosives to be taken into mine in cartridges,	97
When and from what other provisions excepted,	97

	PAGE
Coal—	
Application of Act to mines of,	14
When not to be worked with naked light,	92
Not to be used for tamping,	91
Coal Dust—	
Not to be used for tamping,	91
See Dry and Dusty Mine.	
Coal Getter—	
Unskilled person not to work alone in the face of the workings,	111
Who may be so employed,	111
Qualifications required,	111
Penalty on misrepresentation,	124
Coal Viewers—	
May be chosen as representatives on Board for appointing examiners for granting certificates,	19
Not to act as inspector of mines,	71
Commencement of Act—	
Different from date of passing,	14
Communications between Shafts—	
When required,	39
Dimensions of,	39
When communications made after commencement of Act,	39
Exception,	11
Secretary of State may exempt from provisions as to dimensions,	11, 101
Age of engineman where persons are conveyed by means of an engine, &c., through,	104
Company—	
Change in name of principal officers of incorporated company owning mine to be intimated to inspector,	65, 170
Who are deemed principal officers of incorporated company,	65

	PAGE		PAGE
Company, continued—		Conductors in Shaft—	
Time within which notice must be sent,	65	To be examined daily,	90
Director of company owning mine disqualified from acting as Justice, &c., in proceedings under Act,	127	Construction—	
Except with consent of parties,	124	Of safety lamps,	92
		Of enactments, &c., referring to repealed Acts,	139
Competent Person—		Contract—	
When he may be appointed, and for what period he may act as manager though uncertificated,	45	Not to preclude compliance with provisions against single shafts,	41
To be appointed for making inspection of mine before commencing work,	87	Or fencing of abandoned mine,	66
For making inspection during shifts,	99	Or removal of cause of danger,	71
For making inspection of machinery, &c., above and below ground,	90	Contractor—	
For making inspection of mine when found dangerous,	91	Disqualified for post of manager or under-manager,	10
For examining safety lamps,	93	Also from being appointed to make inspections under rule 1,	87
For firing shots and superintending shot firing where necessary,	95	Subject to Act as if he were an owner,	132
For examining place where shot to be fired when gas reported present,	95	Contravention—	
To be appointed as engineman,	101	&c. Offence.	
Complaint—		Control of Mine—	
Grounds for removal of check-weigher,	30, 33	Must be exercised by certificated manager,	14
For removal of check-weigher may be made to Court of Summary Jurisdiction,	121	Exemptions,	15
As to plan and return in reference to abandoned mine,	70	Responsibility of under-manager in absence of manager,	47
When such complaint may be made,	70	Convictions—	
Limit within which other complaints may be brought,	122	Appeal against,	123
By inspector as to danger not expressly provided for,	73	In Scotland,	126
General provisions as to,	122	In England and Ireland,	123
Procedure in,	122	Copy—	
		Certificate of competency,	57
		Certificate of service,	57
		Fees payable for,	57, 140
		Interpretation of "plan" includes copy of original plan,	131
		Of special rules to be evidence if certified,	118
		Of special rules to be posted up,	118
		Also of abstract of special rules,	118
		Printed copy of special rules to be supplied gratis to workmen,	119

	PAGE		PAGE
Copy, continued—		Counsel—	
Also printed copy of abstract, .	119	May attend inquiry as to competency on behalf of manager or under-manager, . . .	51
Penalty on pulling down or defacing copy, rules, or abstract, &c.,	119	May be consulted in arbitration proceedings,	81
		May attend coroner's inquest and examine witnesses, . .	81
Coroner—		Court of Inquiry into competency of Manager or Under-Manager,	73
Provisions as to inquests, .	82	<i>See Inquiry.</i>	
To adjourn inquest unless inspector present,	93	Court of Investigation as to Explosion or Accident, .	76
Notice of holding inquest to be sent inspector,	83	<i>See Investigation.</i>	
May take evidence of identity and order interment, . . .	88	Court of Summary Jurisdiction—	
Need not adjourn inquest if majority of jury think it unnecessary,	83	In England,	121, 123
Inspector may examine witnesses,	83	In Scotland,	126
To send notice to inspector of neglect or defect,	83	In Ireland,	134
Persons disqualified from serving on jury,	31	*Appeal from,	123, 126
Persons who may attend inquest and examine witnesses, . .	84	In Scotland appeal can only lie to next Circuit Court or High Court of Justiciary, . . .	126
Penal enactment,	84	Cover Overhead—	
Prosecution against coroner requires consent of Secretary of State,	125	When to be used,	106
		Exceptions,	106
		Prohibition against wilful damage of,	108
Costs—		Crank Shaft—	
Of stationing check-weigher, .	28	Where no drum on, break to be on drum shaft,	107
In proceedings for prohibiting working of mine by single shafts, &c.,	40	Currents of Air,	84, 92
In carrying out provisions in respect to certificates of competency,	57	<i>See Air, Air-way.</i>	
Of inquiry into unfitness of manager,	56		
Of fencing abandoned mine, .	66	D	
Of investigation as to explosion or accident,	77	Daily Inspection of Mine, 87, 88, 90, 173, 174.	
In arbitration proceedings, .	81	Daily Personal Supervision—	
How to be recovered in England and Ireland, . . .	121	Meaning of expression, . . .	17
How to be recovered in Scotland,	126	To be exercised by manager or under-manager,	17
		Damage—	
		Where caused by fencing of abandoned mine,	66
		Wilful,	108

	PAGE		PAGE
Danger—		Difference,	78, 82
Not provided against, . . .	73	See Arbitration	
From accumulation of water, .	101	Dilution of Noxious Gas,	85, 95, 96
Increase or continuance of danger affecting place where accident has occurred, . . .	63	See Gas, Ventilation.	
Date—		Dimensions—	
Of passing of Act, . . .	13, 14	Communications between shafts, .	39
Of commencement of Act, . .	14	Travelling roads, . . .	102
Death—		Directions—	
Resulting from personal injury, .	62	Observance of, . . .	106
Notice to be given to inspector, .	63, 167.	Director of Company owning Mine—	
Of arbitrator, . . .	79	Disqualified from acting as Justice, . . .	127
Of parties to arbitration, . .	79	Except with consent, . . .	128
Of umpire, . . .	80	Discontinuance of Shaft or Seam—	
Decision—		See Abandoned Mine.	
Of umpire in arbitration to be final, . . .	81	Disqualification from Appointments under Act—	
Of question whether a mine is under this Act left to Secretary of State, . . .	129	Contractor for mineral not eligible for post of manager or under-manager, . . .	49
Except when question arises in legal proceedings, . . .	129	Nor as competent person to make inspection under general rules, .	87
Deductions—		Of persons as inspectors, . .	71
Agreements as to, . . .	23, 26	As arbitrators or umpire, . .	79
For mineral not contracted to be gotten, . . .	23, 26	As jurors in inquests, . . .	84
For improper filling, . . .	21	Of mining engineers from making periodical inspection on behalf of workmen, . . .	110
Modes of determining, . . .	24, 27	Of unskilled workmen from working alone as coal or iron-stone getters at the face, . .	111
Provisions of Truck Amendment Act, 1887, as to, . . .	32, 33	As Justice, &c., . . .	127
Defacing Notices, . . .	119	Division of Mine into Parts —	
Defects—		In what cases permissible, . .	43
Danger not otherwise provided for, arising from, . . .	73	How to be made, . . .	13, 165
Notice from inspector to remedy, .	73	Secretary of State may object to, . . .	44, 165
Procedure where objections to remedy, . . .	73, 74	Difference to be referred to arbitration, . . .	44, 165
Evidence before coroner as to defect, to be notified to inspector, . . .	63	Downcast Shaft, . . .	101
In roof and sides, . . .	87, 103	Driver—	
Determination of Deductions—		Of animal working machinery, .	105
Modes of, . . .	24, 27		

	PAGE		PAGE
Drum—		Employment, <i>continued</i>—	
To have flanges or horns,	107	Employer to report to manager	
If conical, to have additional		employment of boy before	
appliances,	107	sending him below ground, . .	21
Where not on crank shaft, to		Misrepresentation of age, . .	12
have break on drum shaft, .	107	Payment of school fees out of	
		wages,	21, 22
Dry and Dusty Mine—		Penalty on employment in con-	
Conditions to be observed as to		travention,	2
shot-firing in,	95, 96	Coal or ironstone getter,	111
Watering of places in, . .	95, 96		
When explosive, to be used with		<i>Above Ground.</i>	
water,	95, 96	Boys and girls under twelve	
Conditions to be observed when		prohibited,	17
place part of main haulage		Temporary exception,	137
road,	96	Regulations as to employment	
When and what workmen to be		of boys and girls between	
withdrawn,	96	twelve and thirteen,	17
Meaning of ventilating district,	96	Regulations as to boys and girls	
Case where seams not divided		above thirteen and women, .	18
into ventilating districts, .	97	Hours of employment,	18
Exemptions from provisions as		Intervals between periods of	
to,	97	employment,	18
Dumb Drift—		Intervals for meals,	18
When return air to be carried		Prohibition against employ-	
off by,	86, 87	ment in moving railway	
		waggon,	18
		Ireland—exception as to Satur-	
		day half-holiday,	18
		Registers to be kept,	119, 147
		Misrepresentation of age, . .	124
		Payment of school fees of boys	
		and girls out of wages, . .	21, 22, 23
		Penalty on employment in con-	
		travention,	21
		Endless Chain,	101
		Engine—	
		Fly-wheel to be fenced, . .	107
		Two travelling ways necessary	
		to every steam engine room, .	102
		Steam engine,	104
		Break and indicator required, .	107
		Engineers (Mining)—	
		May be chosen to act on Board	
		for appointment of examiners	
		for granting certificates, . .	49
		To be appointed arbitrators in	
		arbitrations under the Act, .	52

English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110

English—

English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110

English Place—

English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110
English (Lullaby) ...	110

Entrances to be Faced—

Entrances to be Faced—	110
------------------------	-----

Examiners—

Examiners—	110
Examiners—	110
Examiners—	110
Examiners—	110
Examiners—	110

Examinations—

Examinations—	110
Examinations—	110
Examinations—	110
Examinations—	110
Examinations—	110

Exceptions and Exemptions—

Exceptions and Exemptions—	110
Exceptions and Exemptions—	110
Exceptions and Exemptions—	110
Exceptions and Exemptions—	110
Exceptions and Exemptions—	110

Exceptions—

Exceptions—	110
Exceptions—	110
Exceptions—	110
Exceptions—	110
Exceptions—	110

Expenses—

Expenses—	110
-----------	-----

Explosion—

Explosion—	110
Explosion—	110
Explosion—	110
Explosion—	110
Explosion—	110

Fines continued—

How to be recovered in England and Ireland

121

How to be recovered in Scotland

121

When and to what court appeal may be taken in England and Ireland,

123

Appeal in Scotland

123

Application of

124

Fire-clay Mines—

Application of Act

11

Firing of Shots—

See Shot firing

Flanges or Horns—

To be provided on drum of engine

107

Wilful damage

104

Flank Boreholes,

101

Fly-wheel to be Fenced

107

Forfeiture—

Not incurred by conspiracy with provisions against similar shafts

41

Non-fencing of abandoned mine

61

Nor removal of cause of injury

7

Forms—

Annual return

141

Register of boys and women

117

Register of male above sixteen years of age

162

Application for certificates of competency

152

Application for certificates of service

153

Notice of explosion or accident

167

Copy and list of Contents for complete list of Forms

167

Furnace Shaft,

101

Furnace (Ventilating)—

When persons employed at, to be removed during process of shot firing

96

G**General (General)**

Fines to be paid for travel

102

General—

When the fire engine is to inspect

12, 1

The fire engine is to inspect

12, 1

The fire engine is to inspect

12, 1

The fire engine is to inspect

12, 1

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12, 1

The fire engine is to inspect

12, 1

General Rules, continued—	107	Girls, continued—	
Limitations,	94	Regulations as to employment of	17
Use of explosives below ground	91	Period of employment	17
Water and borcholts,	101	Register of girls to be kept at	
Signalling and man holes for travelling plants worked by machinery,	101	Office of mine,	10 117
Man holes for other travelling roads,	102	Misrepresentation of age	121
Man holes to be kept clear,	102	Payment of school fees out of wages	21 22 23
Dimensions of travelling roads,	102	Penal enactment	20
Fencing of old shafts,	103	Cotton—	
Fencing of entrances to shafts,	103	See Mineral Cotton	
Securing of shafts,	103	Cudes—	
Securing of roofs and sides,	103	Shaft exceeding fifty yards in depth to be provided with,	105
Timbering,	103	Daily inspection of,	90
Option of using downcast shaft,	101	Wilful damage,	108
Attendance of engineman,	104		
Means of signalling for working shafts,	105	H	
Cover overhead,	106	Haulage Road (Main),	96
Churns,	106	Head-gear—	
Prevention of rope slipping on drum,	107	To be examined daily,	90
Break and indicator,	107	Hematite Mines,	14
Fencing machinery,	107	Holing Props,	103 101
Safety valves and gauges for boilers,	107	Horns or Flanges—	
Barometer, &c.,	108	To be provided on drum of engine,	107
Sketches,	109	Wilful damage,	108
Wilful damage,	106	Horses—	
Observance of directions,	108	Duty of inspector to examine and inquire into care and treatment of,	72
Books and copies thereof,	108	Persons attending to horses in the shot firing in dry and dusty place of main haulage road,	96
Periodical inspection on behalf of workmen,	110	Man holes to be provided when load drawn by horses,	102
Penal enactment,	111	Dimensions of travelling roads where horses used underground,	102
Getter of Coal,	111	Person in charge of horse working machinery,	104
Getter of Ironstone,	111	Driver of horse working machinery,	106
Getter of Mineral, 28, 34, 57,	111		
Gun,	104		
Girls—			
Interpretation of term "girl,"	132		
Not to be employed below ground,	15		
Employment above ground,	17, 137		
What accommodation to be provided,	130		

	PAGE	
Inspector of collieries—		Inspectors of collieries—
Wellly inspect on of shafts	90	of name of colliery
Periodical inspection of mine		state of colliery
on behalf of workmen	110	mortality
Inspectors—		May give notice of
Appointment of	70	Can only copy in
In Wales and Monmouthshire,	70	May give notice of
Secretary of State may fix title,		may be
&c	70	May give notice of
Notice of appointment to be		copy of
published in Gazette,	70	may be
Meaning of inspector of a		may be
district,	71	may be
Appointment under Metalliferous		may be
minerals Regulation Act		may be
1872, may act as inspector		may be
under this Act	71	may be
Salaries and expenses of in-		may be
spectors, how defrayed,	71	may be
Who cannot act as inspectors	71	may be
Duties and powers of,	72	may be
To make examination and in-		may be
quiry whether Act complied		may be
with	72	may be
To enter, inspect, and examine		may be
any mine,	72	may be
To examine as to condition of		may be
mine ventilation sufficiency		may be
of special rules safety of		may be
persons employed and		may be
treatment of horses, &c,	72	may be
To exercise such other powers		may be
as may be necessary for carry-		may be
ing Act into effect,	72	may be
May inspect and copy register		may be
of boys and women	13	may be
May require mine to be under		may be
control of certificated man-		may be
ager, though not more than		may be
thirty persons employed	45	may be
May be chosen to Board for		may be
appointing examiners,	40	may be
May make representation to		may be
Secretary of State as to in-		may be
competency of manager,	53	may be
May examine any individual		may be
return,	59	may be
May call for production of plan		may be

	PAGE		PAGE
Inspectors, <i>continued</i>—		Ireland—	
Offence for wilfully obstructing inspector,	73	Exemptions as to employment of boys, girls, and women on Saturday afternoon,	19
Annual report of,	75	Application of fines recovered in,	129
Special report as to explosion or accident,	75	Application of Act to,	133, 134
Name and address of inspector to be posted up with abstract and rules,	118	Constitution of Court of Sum- mary Jurisdiction,	134
Penalty for offence where in- spector has given written notice,	120	Interpretation of terms, . . .	134
Continuance of existing in- spectors,	135	Ironstone Getter—	
Name and addresses of inspec- tors and their assistants, 149, 154	149, 154	Who may not work at face of working alone as,	111
Intake Air Course,	97	Experience required,	111
Interval between periods of Employment—		Ironstone Mine—	
Boys employed below ground, .	16	What mines included within the Act,	14
Boys, girls, and women em- ployed above ground,	17	When excepted from provisions requiring explosives to be taken into mine in cart- ridges,	91
Introduction and Summary of Alterations on previous Regulations,	1	When and from what other provisions excepted,	97
Investigation as to Explosion or Accident—			
May be ordered by Secretary of State,	76		
Court, how appointed,	76		
How to be conducted,	76		
Powers of Court,	76		
Court may enter and inspect any place or building,	76		
May summon witnesses,	76		
May require production of books, papers, and documents,	77		
May administer oath and re- quire declaration,	77		
Expenses to be allowed wit- nesses,	77		
Court to report to Secretary of State,	77		
Secretary of State may cause report to be made public, . . .	78		
Expenses, how to be defrayed, .	77		
Penal enactment,	77		
		J	
		Jurisdiction—	
		<i>See</i> Summary Jurisdiction Acts.	
		Jury—	
		Inquest need not be adjourned if majority of jury think it unnecessary,	33
		Persons disqualified from serv- ing on jury at inquest,	84
		Justice—	
		Persons disqualified from acting in proceedings under the Act, .	127
		As member of Court of Sum- mary Jurisdiction in Ireland, .	134
		Justiciary Court in Scotland—	
		Application of the term "at- tending on subpoena before a court of record,"	133
		Appeal from conviction by sheriff to,	126

	PAGE		PAGE
L		Lost Certificate—	
Lamps (Safety)—		May be replaced by copy, . . .	57
Locked safety lamps to be used		Fee for copy of, . . .	57, 110
for inspection of mine, . . .	87, 88		
Except where no inflammable			
gas found during preceding			
twelve months, . . .	87, 88		
Also to be used where danger			
arises from inflammable gas, 91, 95			
Places where locked safety			
lamps must be used, . . .	91, 92		
May be required by special rules, 93			
Construction of, . . .	92		
Examination of, . . .	93		
Not to be unlocked, . . .	93		
Exceptions, . . .	93		
Position of lamp stations, . . .	94		
		M	
Lamp Stations—		Machinery—	
Safety lamps must either be		Daily inspection of, . . .	90, 174
examined at the surface or		Person to be appointed for daily	
appointed station, . . .	94	inspection of, . . .	90
Not to be in the return air, . . .	94	Persons in attendance during	
		shot-firing in dry and dusty	
		mine,	96
		Mine entered by means of, . . .	104
		Age of engineman, . . .	104, 105, 137
		When break and indicator re-	
		quired,	107
		Fencing of,	107
Levels—		Magistrates—	
To be ventilated,	85	Police,	51, 82, 133, 134
Used for purpose of communica-		Stipendiary,	54, 82, 133, 134
tion and conveyance of per-		Meaning of "Chairman of	
sons by means of engine, &c., 104		Quarter Sessions" in Scot-	
Periodical inspection of, on		land,	133
behalf of workmen, . . .	110	Meaning of "County Court	
Term "mine" includes levels, 131		Judge, Police Magistrate,	
		Stipendiary Magistrate, Re-	
		corder, or Registrar of a	
		County Court" in Scotland, 133	
		Meaning of "Registrar of a	
		County Court" in Ireland, . . .	134
		Meaning of "Chairman of Quar-	
		ter Sessions" in Ireland, . . .	135
		Exclusion of persons from act-	
		ing as,	127
London Gazette—		Main Haulage Road, . . .	96
Appointment of inspector to be		Main Intake Air Course, . .	97
published in,	70	Main Return Air Course, . .	97
Means <i>Dublin Gazette</i> in Ire-			
land,	134	Majority—	
Loss of Life by Explosion or		Favourable to appointment of	
Accident—		check-weigher, how to be	
Notice of, to be sent to inspec-		ascertained,	31
tor,	62, 167	Inquest not to be adjourned if	
Resulting from personal injury, 62,		majority of jury consider	
167.		adjournment unnecessary, . . .	33
Notice must be sent within		Of persons employed in mine	
twenty-four hours, . . .	63	may appoint person to attend	
In Scotland, notice deemed to		inquest,	81
be sent to inspector on be-			
half of Lord Advocate, . . .	133		

	PAGE		PAGE
Managers (Certificated)—		Measure of Gauge—	
<i>Manager</i>		Application of term "weigh-	
Every mine to be under certifi-		ing" to include measuring	
cated manager,	14	and weighing,	30
Exemptions,	15	To be examined by inspector	
All reasonable means taken, &c.,	15	under Weights and Measures	
No person qualified,	15	Act,	36
Only thirty persons employed		Use of, not to be prevented or	
below ground, unless inspec-		interfered with,	37
tor requires one,	17	Measurement of Air—	
Penalty on working mine with-		Quantity of air in shafts or cur-	
out manager,	15	rents to be measured monthly,	86
Must be registered as holder of		To be entered in book to be kept	
first class certificate of com-		for the purpose,	86, 172
petency,	44	Exception in case of mines not	
Or certificate of competency or		requiring to be under control	
service granted under pre-		of certificated manager,	86
vious Acts,	125	Metalliferous Mines Regu-	
Duties of,	44, 16, 47	lation Act—	
Responsibilities of,	46, 47	Secretary of State to decide	
Contractor disqualified from		which Act mine falls under,	129
post,	41	Except when question arises in	
Inquiry into competency of,	53	legal proceedings,	129
<i>Under-manager</i>		Inspector of mines under above	
Must be holder of first or		Act may be appointed inspec-	
second class certificate of		tor under this Act,	71
competency,	47, 49	Mineral Gotten—	
Or certificate of service,	136	Payment of wages where same	
Duties of under-manager,	47, 48	depend on amount of,	23, 25
Responsibilities of,	47, 48	Deductions from	23, 25
Contractor disqualified,	4	Mode of determining deduc-	
Inquiry into competency of,	53	tions from,	24, 27
Man-holes—		Agreement as to deductions, 23, 25, 26	
In under-ground planes self-act-		Exemption as to payment by	
ing or worked by machinery,	101	weight of,	24, 25, 163
In under-ground road, where		Application of Weights and	
load drawn by horse or other		Measures Act,	36
animal,	102	Ratification of check-weigher	
To be kept clear,	102	where persons paid according	
Wilful damage,	108	to weight of,	34, 35
Matches—		Individual return of mineral	
Prohibition of,	98	gotten not to be published,	59
Also of apparatus for striking		Who may examine individual	
light,	93	return of,	59
Means of Signalling—		Mines—	
<i>See</i> Signalling.		Interpretation of "mine,"	131
		What comprehended under Act,	11

Mines, continued—

Prohibition of single shafts,	39
Division of mine into parts,	43
Inspection of mine by inspectors,	72
Inspection before commencing work, . . .	87
Inspection during shifts, . . .	88
Inspection of machinery, &c., . . .	90
Periodical inspection on behalf of workmen, . . .	110
Secretary of State to decide which Act mine falls under, . . .	129
Except in question arising in course of legal proceedings, . . .	129

Mining Engineer—

May be chosen to act on Board for appointment of examiners for granting certificates, . . .	49
To be appointed arbitrators in arbitrations under the Act, . . .	82
May consult other engineers in arbitration proceedings, . . .	81
Disqualified for acting as inspector of mines, . . .	71
Also from appointment for periodical inspection of mine on behalf of workmen, . . .	110

Misdemeanour—

Offences declared to be misdemeanours, . . .	58, 131
Penalty on conviction, . . .	58
Interpretation of term in application of Act to Scotland, . . .	133

Misrepresentation—

As to age of boy or girl, . . .	124
As to experience as coal or iron-stone getter, . . .	124
Penal enactment, . . .	124

N

Naked Lights,

92

Name and Address—

Of boys, girls, and women, with age, and date of first employment, to be entered in register, . . .	19
Of manager to be sent to inspector of the district, . . .	44, 166

Name and Address, continued—

Of district inspectors and assistant inspectors, . . .	70, 154
Of secretaries to boards of coal-miners, . . .	114, 156
Change in name of mine to be intimated to inspector, . . .	65, 170
Also change in name of owner, agent, or manager of mine, or in the principal offices of incorporated company, . . .	65, 170
Of district inspector, to be posted up with abstract and copy of rules, . . .	114

Negligence of Manager—

Inquiry into, . . .	53
Cancellation of certificate in case of, . . .	53

Notices--

By Inspector to Owner, Agent, or Manager.

Intention to apply for injunction against single shafts, . . .	10
Requiring accurate plan of mine to be made, . . .	61
Requiring mine employing less than thirty persons to be under control of manager, . . .	45
Causes of danger not expressly provided for, . . .	73

By Owner, Agent, or Manager to Inspector.

As to division of mine into parts, . . .	43, 165
Declining to acquiesce in objections to division of mine, . . .	44, 165
Of nomination, name, and address of manager, . . .	44, 166
Of explosion or accident, . . .	62, 167
Where personal injury results in death, . . .	63, 167
Opening of new shaft or seam, . . .	65, 166
Abandonment or discontinuance of shaft or seam, . . .	65, 166
Recommendation of abandoned shaft or seam, . . .	65, 169
Change in name of mine, . . .	65, 170

	1864		PAGE
Notices, continued—		Offences —	
Change in name of owner, agent, or manager, or in principal officers of incorporated com- pany,	65, 170	Employment of persons in con- travention of Act,	20
Objecting to remedy matter complained of by inspector, 73, 170		Non-payment of school fees out of wages,	22
<i>By Coroner to Inspector.</i>		Payment of wages at public- houses, &c.,	23
Of adjournment of inquest,	83	As to payment by weight,	21
Of evidence of neglect or defect,	83	For refusing facilities to check- weigher,	31
<i>By Secretary of State.</i>		For working mine without manager in contravention of Act,	45
Objecting to division of mine into parts,	13	As to single shafts,	39
Objecting to special rules,	115, 116	Forgery of, or false declaration as to certificate,	58
<i>Miscellaneous.</i>		As to returns,	60
As to appointment of arbitrator,	70, 171	As to plan of mine,	61, 62
Penalty on pulling down or de- facing,	119	For non-compliance as to notices,	65
May be in writing, print, or lithograph,	129	For refusing to fence abandoned mine,	66
Exceptions,	119, 120	For obstructing fencing of abandoned mine,	66
Service of,	120	As to plan of abandoned mine, For obstructing inspector,	69, 73
Nuisance—		For not remedying matter of complaint by inspector,	74
When shaft or side entrance un- fenced deemed,	67	Against provisions as to coro- ners,	34
Application of Public Health Act,	67, 133, 134	For non-compliance with gene- ral rules,	111
O		For non-compliance with special rules,	113
Objections—		False statements and neglect to transmit special rules,	117
• To deductions from mineral gotten,	28	For not publishing abstract of Act and special rules,	119
To division of mine into parts,	13, 165	Pulling down or defacing notices,	119
To remedy matters complained of by inspector,	73, 170	Penalties for offences,	120
By workmen to proposed new special rules,	114	Imprisonment for wilful neglect endangering life or limb,	120
By Secretary of State to pro- posed new special rules,	115, 116	Summary proceedings for, in England,	121
By owner, agent, or manager, to modification of proposed special rules,	116, 179	Summary proceedings for, in Scotland,	126
To amendment of special rules,	117	Summary proceedings for, in Ireland,	133, 134
To be referred to arbitration,	117		
Observance of Directions,	103		

	PAGE		PAGE
Offences, <i>continual</i>—		Owner—	
General provisions as to summary proceedings, . . .	122	Interpretation of, . . .	11
Appeal from conviction by Court of Summary Jurisdiction in England and Ireland, . . .	123	Liable for fencing abandoned mine, . . .	61, 67
Appeal in Scotland, . . .	126	Liability for non-compliance with Act, 21, 22, 21, 112, 11 . . .	120
For misrepresentation as to age, &c., . . .	121	Not to act as Justice in proceedings under the Act, . . .	127
Prosecution of owners, agents, managers, &c., . . .	124		
Not committed personally by the owner, agent, manager, or under-manager, . . .	124	P	
Where owner, agent, manager, or under-manager taken all reasonable means to prevent, . . .	125	Parent or Guardian—	
Proceedings against workmen at the instance of owner, agent, or manager to be reported to inspector, . . .	125	Liability for misrepresentation as to age of boy or girl, . . .	121
Persons not to be punished twice for same offence, . . .	127	Partner in Mine—	
Application of fines for, . . .	128	Not to be inspector, . . .	71
Committed before commencement of Act, . . .	138	Pass-by—	
Old Workings—		When timber to be provided at, 103, 104, . . .	
Periodical inspection of, on behalf of workmen, . . .	110	Passing of Act—	
Option of using Downcast Shaft, . . .	104	Date of, . . .	13, 11
Orders under previous Act—		Different from date of commencement, . . .	11
Continuance of, . . .	135	Provisions referring to, 14, 86, 111, 135, . . .	
Outlets of Mines—		Payment of Wages—	
Mine to have two shafts or outlets, . . .	39	Prohibition at public-house, &c., . . .	22
To afford separate means of ingress and egress, . . .	39	Penal enactment, . . .	22
To be fifteen yards apart, . . .	39	Where wages depend on amount of mineral gotten, . . .	23
Exceptions, . . .	41, 164	Agreement as to deductions, 23, 26, . . .	
Communications between, . . .	39	Modes of ascertaining deductions, . . .	21, 27
Apparatus for raising and lowering persons at each shaft to be kept at works, . . .	39	Penal enactment, . . .	24
Exceptions as to single shaft, 41, 164 . . .		Audit of deductions, . . .	23
Overwinding of Cage—		Exemption from payment by weight, . . .	21, 103
What required for prevention of, . . .	106	Of check-weigher, . . .	34
		Who liable for, in case of check-weigher, . . .	35
		Owner, agent, or manager not to retain agreed-on contribution and account to check-weigher, . . .	31
		Application of Weights and Measures Act where persons paid by weight, . . .	36

**Payment to Arbitrators,
Umpire, Assessors, &c.—**
See Costs.

Penalties—

	PAGE
For employment of persons in contravention of Act, . . .	20
For non-payment of school fees out of wages, . . .	22
For payment of wages at public-houses, &c., . . .	22
As to payment by weight, . . .	24
For refusing facilities to check-weigher, . . .	31
As to single shafts, . . .	39
For working mine without manager in contravention of Act, . . .	45
On forgery of, or false declaration as to certificate, . . .	58
As to returns, . . .	60
As to plan of mine, . . .	61, 62
For non-compliance as to notices, . . .	65
For refusing to fence abandoned mine, . . .	66
For obstructing fencing of abandoned mine, . . .	66
As to plan of abandoned mine, . . .	69
For obstructing inspector, . . .	73
For not remedying matter of complaint by inspector, . . .	74
For offences against provisions as to coroners, . . .	84
For non-compliance with general rules, . . .	111
For non-compliance with special rules, . . .	113
False statements and neglect to transmit special rules, . . .	117
For not publishing abstract of Act and special rules, . . .	119
For pulling down or defacing notices, . . .	119
Imprisonment for wilful neglect endangering life or limb, . . .	120
On owner, agent, or manager guilty of an offence against Act, . . .	120
Any other person, . . .	120

Penalties, continued—

	PAGE
Summary proceedings for offences, penalties, &c., in England, . . .	121
Summary proceedings for offences, penalties, &c., in Scotland, . . .	126
Summary proceedings for offences, penalties, &c., in Ireland, . . .	133, 134
General provisions as to summary proceedings, . . .	122
Appeal from conviction by Court of Summary Jurisdiction in England and Ireland, . . .	123
Appeal in Scotland, . . .	126
For misrepresentation as to age, &c., . . .	124
Prosecution of owners, agents, managers, &c., . . .	124
Offence not committed personally by owner, agent, manager, or under-manager, . . .	124
Where owner, agent, manager, or under-manager taken all reasonable means to prevent offence, . . .	124
Result of proceedings against workmen at instance of owner, agent, or manager to be reported to inspector, . . .	125
Persons not to be punished twice for same offence, . . .	127
Application of, . . .	128, 129
Incurred before commencement of Act, . . .	138

Period of Employment—

Boys below ground, . . .	16
Boys, girls, and women above ground, . . .	17
Penalty on employment in contravention, . . .	20

**Periodical Inspection of
Mine on behalf of Workmen—**

Facilities to be afforded for, . . .	110
Who may be appointed to make, . . .	110
Persons disqualified, . . .	110

	PAGE		PAGE
Periodical Inspection of Mine on behalf of Workmen, continued—		Plans of Mine, continued—	
Report to be recorded, . . .	110, 176	To be produced to inspector at the mine, . . .	61
When copy report required to be sent to inspector, . . .	110	What requires to be shown on, . . .	61
Personal Injury—		Progress of workings to be marked on, . . .	61
When sustained by explosion, notice to be sent to inspector, . . .	62, 63	Inspector may examine and copy for official purposes, . . .	61
When sustained by accident, notice to be sent to inspector if injuries serious, . . .	63	Penal enactment, . . .	61, 62
When resulting in death, notice to be sent to inspector, . . .	63	Inspector may require accurate plan to be made, . . .	61
In Scotland, notices to inspector deemed to be sent on behalf of Lord Advocate, . . .	133	Scale of plan, . . .	61
Personal Supervision—		Time allowed for making plan, . . .	61
See Supervision.		Offence for failing to make plan on requisition of inspector, . . .	62
Petty Sessions (Ireland) Act, 1851—		Of abandoned mines, . . .	68, 69
Application of, to this Act, . . .	134	Police Magistrate—	
Pillars—		Interpretation of term in Scotland, . . .	133
Working away of, . . .	41, 42	Interpretation in Ireland, . . .	134
Pit—		Powers—	
Included in the term "shaft," . . .	131	See Secretary of State, Inspectors, Managers, Coroners.	
Pit Mouth—		Practicable—	
Mineral gotten to be weighed at or near, . . .	23	Interpretation of term "reasonably practicable," . . .	85
Place of Refuge—		Preamble, . . .	13
In underground planes self-acting or worked by machinery, . . .	101	Presence of Gas—	
In underground road where load drawn by horse or other animal, . . .	102	See Gas.	
To be kept clear, . . .	102	Print—	
Wilful damage, . . .	108	Notices may be in print or lithograph, . . .	129
Planes—		Or partly in writing and partly in print or lithograph, . . .	129
What required to be provided with, . . .	101, 102, 104, 107	Exception, . . .	119, 129
Periodical inspection of, on behalf of workmen, . . .	110	Proceedings of Board for Examinations, . . .	50, 139
Included in term "mine," . . .	131	Prosecutions—	
Plans of Mine—		Summary proceedings for offences, &c., . . .	121
Interpretation of "plan," . . .	131	General provisions as to summary proceedings, . . .	122
To be kept by owner, . . .	60	Appeal from Court of Summary Jurisdiction in England and Ireland, . . .	123
		Appeal in Scotland, . . .	126

	PAGE
Prosecutions, continued—	
Of owners, agents, and managers,	124
Of coroner,	125
Summary proceedings in Scot- land,	126
Proceedings may be brought under other Acts,	127
But no person to be punished twice for same offence,	127
Who may not act as Justice, &c.,	127
Application of fines,	127
See Penalties, Summary Juris- diction Acts.	
Publication—	
Of General Rules,	112
Of Abstract of Act and Special Rules,	118
Penalty on pulling down or defacing notices, &c.,	119
Public Elementary School—	
Interpretation as to Scotland, 21, 22, 133.	
Public Health Acts—	
Application to this Act of Public Health Act, 1875, 67, 130	
Public Health (Scotland) Act, 1867,	67, 130, 133
Public Health (Ireland) Act, 1878,	67, 130, 134
Shaft or side entrance of aban- doned mine unfenced to be deemed a nuisance under,	67
Privy accommodation to be provided where girls and women employed,	130
Pulling down or defacing Notices, &c.,	119
Penalty on,	119
Pumping Shaft to be Fenced,	103

Q

Qualifications—	
Applicants for certificates of competency,	49, 50, 51, 152
Applicants for certificate of service,	135, 136, 153
Coal or ironstone getters,	111

Qualifications, continued—	PAGE
Inspectors of mines in Wales and Monmouthshire,	70
Quarter Sessions—	
Chairman of, in Scotland,	133
Chairman of, in Ireland,	135
Question as to whether a Mine falls under this Act—	
To be referred to Secretary of State,	129
Except when it arises in legal proceedings,	129
Questions (Examination)—	
Specimen copy for first-class certificate,	158

R

Railway Waggon—	
Boys, girls, and women not to be employed in moving,	18
Reasonably practicable—	
Meaning of expression,	85
Resumption of Aban- doned Mine—	
Notice to be given to inspector, 65, 169.	
Record of Males above Six- teen years of Age—	
Form of,	162
Recorder—	
Interpretation of, in Scotland,	133
Reference—	
See Arbitration.	
Refuge, Place of—	
See Man-holes.	
Register—	
Of boys, girls, and women to be kept at mine,	19
Form of,	147
To be produced to inspector,	19
Also to school authority,	19
Who may copy,	20
Of holders of certificates,	53, 135
Cancellation, suspension, or re- stitution of certificate to be recorded,	56
See Record.	

	PAGE		PAGE
Registrar of County Court—		Reports, continued—	
Interpretation in Scotland, . . .	133	Of inspection as to ventilation, &c., during shifts, . . .	88, 173
Interpretation in Ireland, . . .	134	Of inspection of machinery, &c., 90, 174, 175.	
Regulations as to Employment—		As to mine found dangerous, 91, 175	
Of boys below ground, . . .	16, 137	As to presence of inflammable gas, . . .	91, 175
Boys, girls, and women above ground, . . .	17, 137	Of inspection of mine on behalf of workmen, . . .	110, 176
Engineman, . . .	104, 137	Of result of proceedings against workmen, . . .	125
Coal or ironstone getter, . . .	111	When required to be recorded in a book, . . .	109
See Employment.		May be partly in print, includ- ing lithograph, and partly in writing, . . .	109
Removal of Check-weigher—		Returns—	
Grounds of, . . .	30, 33	Annual return, . . .	58, 141
Procedure in, . . .	30, 121	When to be made, . . .	58
See Check-weigher.		• When particulars of Part B not required, . . .	59
Remuneration—		Inspector to furnish form of, . . .	59
Of Check-weigher, . . .	34	What particulars may be published, . . .	59
Examiners for certificates, . . .	52	Who may inspect, . . .	59
Court of Inquiry as to com- petency of manager, . . .	56	Offence for failing to make return, or making false return, . . .	60
Inspectors, . . .	71	Case of abandoned mine, . . .	69
Court of Investigation as to explosion or accident, . . .	77	Offence in case of abandoned mine, . . .	69
Assessors, . . .	56, 77	See Record.	
Of arbitrators and umpire, . . .	81	Return Air—	
Repeal of Acts—		To be carried off clear of venti- lating fire, . . .	86
Schedule of Acts repealed, . . .	144	When so required to be done, . . .	86
Construction of references to repealed Acts, . . .	138	Means to be adopted, . . .	87
Not to affect anything done before commencement of this Act, . . .	138	Lamp stations not to be in, . . .	94
Reports—		Return Air-way, . . .	87, 92, 94, 97
By Boards for appointing examiners, . . .	51	Roads—	
By Court of Inquiry into com- petency of manager, . . .	54	Ventilation of travelling roads, . . .	85
By inspector as to danger not expressly provided against, . . .	73	Dimensions of, where horse or animal used, . . .	102
Annual report by inspectors, . . .	75	Main haulage road, . . .	96, 97
Special report by inspectors, . . .	75	Underground roads, what to be provided with, . . .	101, 102
By Court of Investigation into explosion or accident, . . .	77		
Measurement of air, . . .	86, 172		
Of inspection of mine as to ventilation, &c., before com- mencement of work, . . .	87, 173		

Roof and Sides—	PAGE	Rules, continued—	PAGE
Inspection of,	87	Cover overhead	106
Report to be recorded of defects in,	87	Chains,	106
In dry and dusty mine, when to be watered,	96	Prevention of rope slipping on drum,	107
Dimensions of travelling roads where horses used,	102	Break and indicator,	107
Securing of,	103	Fencing machinery,	107
See Timbering.		Safety valves and gauges for boilers,	107
Ropes—		Barometer, &c.,	108
Tubs moved by endless chain or rope,	101	Stretchers,	108
What required for prevention of rope slipping on drum,	107	Wilful damage,	108
Rules—		Observance of directions,	108
<i>General Rules.</i>		Books and copies thereof,	108
Ventilation of mine,	85	Periodical inspection on behalf of workmen,	110
Stations and inspection of condition as to ventilation, &c.,	88	Penal enactment,	111
Inspection of machinery, &c., above and below ground,	90	<i>Special Rules.</i>	
Fencing of entrances,	90	Establishment of,	113
Withdrawal of workmen in case of danger,	90	What to be provided for in,	113
Use of safety lamps in certain places,	91	To be signed in duplicate by inspector,	113
Construction of safety lamps,	92	Penal enactment,	113
Examination of safety lamps,	93	New special rules,	114
Lamp stations,	94	When to be framed and transmitted to inspector,	114
Use of explosives below ground,	94	Workmen may object to,	114
Water and boreholes,	101	Procedure in case of objections by workmen,	114
• Signalling and manholes for travelling planes worked by machinery,	101	When deemed to be established,	115
Manholes for other travelling roads,	102	Secretary of State may object to,	116
Manholes to be kept clear,	102	Modifications by Secretary of State,	116
Dimensions of travelling roads,	102	Owner, agent or manager may object to modifications,	116, 119
Fencing of old shafts,	103	Arbitration as to,	116
Fencing of entrances to shafts,	103	Amendment of,	117
Securing of shafts,	103	False statement and neglect to transmit,	117
Securing of roofs and sides,	103	Certified copy to be evidence,	118
Timbering,	103	But not to the exclusion of other proof,	118
Option of using downcast shaft,	104	Publication of,	118
Attendance of engineman,	104	To be posted up,	119
Means of signalling for working shafts,	105	Renewal of when defaced or destroyed,	119
		Printed copies to be supplied to workmen,	119

	PAGE		PAGE
Rules, continued—		Scotland—	
To be kept distinct from con-		Application of Act to, . . .	132
tract rules,	119	Summary proceedings for offences in,	126
Penal enactment,	119	Interpretation of terms as to, . . .	133
Pulling down or defacing, . . .	119		
Continuance of existing special		Scraper—	
rules,	136	Iron or steel, not to be used in	
		process of blasting,	91
S			
Safety Lamps—		Seams of Mine—	
Locked safety lamp to be used		Provisions against single shafts	
for inspection of mine,	87, 88	apply to,	89
Exception where no inflamm-		When section of seam to be	
able gas found during pre-		shown on plan,	61, 69
ceding twelve months,	87, 89	Provisions as to opening and	
Also to be used where danger		abandonment of mine apply	
arises from inflammable gas, . .	91	to,	65, 68
Places where use of, obligatory, .	91, 92	Also provisions as to plan of	
May be required by special		abandoned mine,	69
rules,	93	Examination before shot-firing	
Construction of,	92	in,	95
Examination of,	93	Removal of workmen from, . . .	96
Not to be unlocked,	93	Seams of clay and stratified	
Exceptions,	93	ironstone,	97
Position of lamp stations, . . .	94	When and from what provi-	
		sions exempted,	97
Safety Valves—		Term "seam" when to be sub-	
Each steam boiler to be pro-		stituted for ventilating dis-	
vided with,	107	trict,	97
Willful damage to,	108		
Salaries of Inspectors—		Second-Class Certificate of	
To be fixed by Secretary of		Competency—	
State,	71	See Certificate.	
How to be defrayed,	71		
Scale of Plans,	61, 69	Secretary of State—	
Scales—		Interpretation of,	132
Application of Weights and		May exempt mine in Ireland	
Measures Act to,	36	from provision against em-	
To be examined every six		ployment of boys, &c., after	
months,	36	two o'clock on Saturday, . . .	19
Schedules to Act,	139	To prescribe form of register of	
School—		boys, girls, and women, . . .	19
Who may inspect and copy		When he may exempt mine	
register of boys and girls, . . .	19	from provisions as to payment	
Payment of school fees out of		by weight,	24
wages,	21, 22, 23	When he may exempt mine	
Interpretation of "public ele-		from provisions against single	
mentary school' in Scotland. .	133	shaft,	41
		Power of exemption as to	
		dimensions of communica-	
		tions between shafts,	43

	PAGE		PAGE
Secretary of State, continued—		Secretary of State, continued—	
May object to division of mine into parts,	48	To receive annual return,	59
To appoint Board for choosing examiners for granting certificates, and define districts,	49	May prescribe form of annual return,	59
May remove members of Board,	49	May require particulars in Part B, of annual return, when not otherwise necessary,	59
May consent to member of Board acting as examiner,	50	To furnish forms of return,	59
May require Board to furnish report of their proceedings,	51	Power as to publication of results of return,	59
May inspect or copy minutes of Boards,	140	May allow extension of time for preparing plan of mine,	62
Power of, as to rules for examinations,	52	Notice of accidents, &c, sent to inspector on behalf of,	63
To grant certificates to qualified applicants,	53	To receive plan of abandoned mine or seam,	69
To prescribe form of certificate,	53	To preserve plan,	69
To direct register of certificates to be kept, and appoint keeper,	54	Return as to abandoned mine to be sent to inspector on behalf of,	69
May order inquiry into competency of manager and under-manager,	53	May appoint inspectors,	70
To appoint place of, and person to hold inquiry,	54	May fix titles, duties, and salaries of inspectors,	70
May also appoint assessor,	54	May remove inspector,	70
To furnish manager or under-manager with statement of case before commencement of inquiry,	54	Salaries and expenses of inspection, how to be defrayed,	71
To receive report of inquiry,	54	To receive report as to danger not expressly provided against,	73
May remunerate Court and assessors, with consent of Treasury,	56	Also objections to remedy matter complained of,	73
How costs and expenses to be defrayed,	56	To receive annual report from inspectors of district,	73
To cause cancellation or suspension of certificate to be recorded,	56	May require special report by inspectors as to explosion or accident,	73
May renew or restore certificate,	56	May direct formal investigation as to explosion or accident,	76
To cause renewal or restoration to be recorded,	57	May appoint person to hold investigation,	76
When to grant certified copy of lost certificate,	57	Also assessor,	76
May fix fee for copy certificate not exceeding specified sum,	57	To receive report of investigation,	77
Expenses as to certificates, how to be defrayed,	57	Expenses of investigation, how to be defrayed,	77
		Powers as to publication of reports,	78
		Represented by inspectors in arbitration proceedings,	79

	PAGE		PAGE
Secretary of State, continued—		Shafts, continued—	
To fix remuneration of arbitra- tors and umpire, . . .	81	Dimensions of communications between shafts, . . .	39, 41, 42
Expenses of arbitration, how to be defrayed, . . .	81	Agreements not to preclude compliance with Act, . . .	41
May exempt mine from provi- sion requiring explosives to be taken into mine in cart- ridges, . . .	91	Exceptions from provisions as to, . . .	41, 164.
Powers as to approval of new special rules, . . .	114, 116	Notice to be given of opening new shaft, . . .	65, 165
May object to special rules, . . .	116	Also of abandonment of shaft, . . .	65, 168
When he may object to rules, . . .	116	Also of recommencement of abandoned shaft, . . .	65, 169
Modification of rules by, . . .	116	Fencing of abandoned shaft, . . .	66
Arbitration as to rules, . . .	117	Plan of abandoned shaft, . . .	68
• Powers as to amendment of special rules, . . .	117	Ventilation of working places of, Daily inspection of guides and conductors, &c., in, . . .	85 90, 171
Inspectors to furnish copies of special rules, &c., on behalf of, . . .	115	Weekly inspection of, . . .	90, 175
Prosecutions requiring consent of, . . .	124	Fencing of disused shafts and air-shaft, . . .	103
Powers as to application of fines, . . .	128	• Fencing of top. entrances, and sump of, . . .	103
To decide question as to whether mine falls under this Act, . . .	129	Scouring of, where strata un- safe, . . .	103
Except when question arises in legal proceedings, . . .	129	Option of using different, . . .	104
Powers as to making and re- voking orders, . . .	129	Means of signalling for work- ing, . . .	105
Continuance of existing orders by, . . .	135	Limit of speed in winding cage, . . .	106
Powers as to grant of certificate of service, . . .	135	Persons at work in, . . .	106
Service of Notices, . . .	129	Single-linked chain, when pro- hibited, . . .	106
Service Certificates—		Inspection on behalf of work- men, . . .	110
When to be deemed first-class certificates, . . .	135	• See Crank Shaft, Drum, Single Shaft.	
To whom to be granted under this Act, . . .	135, 136	Shale Mines—	
Fees payable for, . . .	136, 140, 153	Application of Act to, . . .	14
To have same effect as second- class certificates of compet- ency, . . .	136	Sheriff—	
Shafts—		Interpretation of, . . .	133
Included in term "mine," . . .	131	In Scotland term "Chairman of Quarter Sessions" means, . . .	133
"Shaft" includes pit, . . .	131	What terms mean in Scotland, Sheriff or Sheriff-Substitute, . . .	133
Single shaft prohibited, . . .	39	Sheriff Court—	
Distance between shafts, 39, 41, 164		Duties of Auditor of, under this Act, . . .	56, 78, 133

	PAGE		PAGE
Shifts—		Signalling—	
Inspection of mine before com-		Means of, to be provided in	
mencement of,	87, 173	travelling planes worked by	
Inspection during,	88, 173	machinery,	101
<i>See</i> Ventilation.		Also in working shafts,	102
Short Title,	14	Wilful damage,	108
Shot-firing—		Single Shafts—	
Explosives not to be stored in		Prohibition of,	90
mine,	91	Penal enactment,	90
Nor taken into mine except in		May be prohibited by injunc-	
cartridges, in case, or canister, . .	94	tion,	10
Exemption as to cartridges be-		Agreements not to preclude	
ing required,	91, 97	compliance with Act,	41
Workmen not to have more		Exceptions from provisions as to, . .	11
than one case or canister,	91	Skilled Workmen—	
Prohibition of iron or steel		Experience under supervision	
pricker, scraper, charger,		of, when required for coal or	
tamping-rod, or stemmer,	91	ironstone getter,	111
Also of coal or coal dust for		Offence for misrepresentation	
tamping,	91	as to experience,	121
Explosive not to be forced into		Solicitor—	
insufficient hole,	91	May attend inquiry into com-	
Hole for new charge to be at		petency of manager or under	
least six inches from missed		manager,	54
charge,	91	May attend inquest,	84
Conditions to be observed in		Special Report by Inspec-	
place where use of safety		tors—	
lamp obligatory,	95	Secretary of State may order	
Conditions in dry and dusty		report as to explosion or	
place,	95	accident,	75
Conditions where inflammable		And may publish report,	78
gas reported present,	95	Special Rules—	
Conditions where dry and dusty		Establishment of,	113
place is part of main haulage		What to be provided for in, . . .	113
road,	96	To be signed in duplicate by	
Meaning of "ventilating dis-		inspector,	113
trict,"	96	Penal enactment,	113
"Seam," when to be substituted		New special rules,	114
for ventilating district,	97	When to be framed and trans-	
Meaning of "main haulage		mitted to inspector,	114, 178
road,"	97	Workmen may object to,	114, 117
Exemption as to seams of clay		Procedure in case of objections	
or ironstone,	97	by workmen,	116
Sides—		When deemed to be established, . .	115
<i>See</i> Roof and Sides.		Secretary of State may object	
Siding—		to,	116
<i>See</i> Timbering.			

	PAGE		PAGE
Special Rules, continued—		Stations, continued—	
Modifications by Secretary of State,	116, 179	Lamp station—,	93, 94
Owner, agent, or manager may object to modifications,	116, 179	Not to be in return air.	94
Arbitration as to,	116	Stationing of Check-weigher—	
Amendment of,	117	See Check-weigher.	
False statement and neglect to transmit,	117	Steam Boiler—	
Certified copy to be evidence,	118	When notice of explosion required,	63
But not to the exclusion of other proof,	118	Men in attendance during shot-firing in dry and dusty place,	96
Publication of,	118	To have each a safety valve and steam and water gauge,	107
To be posted up,	119	Steam Engine—	
Renewal of, when defaced or destroyed,	119	Men in attendance during shot-firing in dry and dusty place,	96
Printed copies to be supplied to workmen,	119	Two travelling ways necessary into engine-room,	102
To be kept distinct from contract rules,	119	Age of person in charge of engine for lowering and raising persons,	104
Penal enactment,	119	Age of other engineman,	105
Pulling down or defacing,	119	Break and indicator required,	107
Continuance of existing special rules,	136	Steam Gauge—	
Splints—		To be provided for each steam boiler,	107
See Ambulance.		Wilful damage,	108
Splits or Currents—		Steelyards—	
Air to be measured monthly, 86, 172		Application of Weights and Measures Act to,	36
Quantity to be entered in a book,	86, 172	Inspection of,	36, 37
Exception of mine where certificated manager not required,	86	Stemming for Blasting—	
Sprags—		What prohibited in process of,	94
Not to be more than six feet apart,	104	Coal or coal dust not to be used for tamping,	94
May be less where ordered,	104	Explosive not to be pressed into insufficient hole,	94
Stables in Mine—		Charge not to be unrammed,	94
Ventilation of,	85	Stipendiary Magistrate—	
State-aided School in Scotland,	22, 133	Interpretation as to Scotland,	133
Stations—		Interpretation as to Ireland,	134
Where to be appointed for purposes of inspection,	87	Strata—	
Workmen not to pass, till mine reported safe,	87	What particulars to be shown on plan of mine,	60, 61
		Case of abandoned mine,	60

	PAGE		PAGE
Strata, continued—		Supervision—	
Where unsafe, shafts to be secured,	103	Daily personal supervision of mine,	17
Stratified Ironstone—		To be exercised by manager or under-manager,	17
Application of Act to mines of,	14	Of unskilled coal or ironstone getter,	111
When and from what provisions as to use of explosives exempted,	97		
Stretchers—		T	
To be kept at the mine,	108	Table of Fees payable in respect of Certificates, .	110
Also splints and bandages,	108	Tamping—	
To be ready for immediate use,	108	Coal or coal dust not to be used,	91
Summary of Changes introduced by Act,	1	Iron or steel tamping-rod prohibited,	91
Summary Jurisdiction Acts—		Tareing of Tubs and Trams—	
In England,	121	Check-weigher to have facilities for checking,	29
In Scotland,	126	May also give workmen information as to,	30
In Ireland,	131	Teacher—	
Summary proceedings for offences in England,	121	May request payment of school fees out of wages,	31
Summary proceedings for offences in Scotland,	126	Penalty on refusal to pay school fees,	22
Summary proceedings for offences in Ireland,	131	Temporary exemptions from Act—	
Proceedings for removal of check-weigher,	121	Boys between ten and twelve years of age employed below ground before commencement of Act,	137
General provisions as to summary proceedings,	122	Boys and girls between ten and twelve employed above ground before commencement of Act,	137
Appeal from conviction by Court of Summary Jurisdiction in England and Ireland,	123	Engineman above eighteen years of age before commencement of Act,	137
Appeal in Scotland,	126	Testing of Weighing Machine—	
Proceedings under other Acts,	127	Facilities to be afforded check-weigher for,	29
Summons—		Thermometer—	
By Court of Inquiry into competency of manager,	55	To be provided,	108
By Court of Investigation as to explosion or accident,	76	Where to be placed,	108
Penalty on non-compliance with,	75		
Who may not be summoned to serve on jury in inquest,	84		
Superior Courts—			
Master of, in Scotland,	58, 78, 133		
Meaning of master of, in Ireland,	131		

		PAGE
Timbering—		
Where to be provided, when done by workmen, . . .	103, 104	
Distance between sprags or holing props, . . .	104	
Trams—		
Check-weigher to have facilities for checking tare of, . .	29	
May also give information to workmen as to tare of, . .	30	
Tramways—		
Interpretation of mine includes, . . .	131	
Transitory Provisions, . . .	135	
Travelling Roads—		
Ventilation of, . . .	85	
Signals and manholes where worked by machinery, . .	101	
Signals and manholes for other roads, . . .	102	
Dimensions of, . . .	102	
Securing roofs and sides of, . .	103	
Truck Acts—		
Retention of check-weigher's wages not affected by, . .	35	
Provisions of, as to deductions from wages, . . .	22, 23	
Tubs—		
Deductions from, . . .	22, 25	
How to be determined, . .	24, 27	
Power of check-weigher as to checking tare of, . . .	20	
When cover overhead required, . .	106	
U		
Umpire—		
How to be appointed, . . .	80	
Who to be appointed, . . .	82	
To be present at hearing before arbitrators, . . .	81	
Remuneration of, . . .	81	
Death or incapacity of, . .	80	
Unfitness of Managers—		
<i>See Inquiry.</i>		

	PAGE
Underground Plane worked by Machinery—	
Signalling and manholes to be provided,	101
<i>See also Planes.</i>	
Underground Road where load drawn by horse, &c.—	
Manholes to be provided,	102
Also two travelling ways into steam engine room and boiler gallery,	102
<i>See Planes.</i>	
Uniform Deductions—	
For foreign material and im- proper filling,	26
Validity of agreement as to,	26
V	
Ventilation of Mine—	
• Power of inspector to examine and inquire as to,	72
Extent of ventilation required,	85
To be constantly produced,	85
Quantity of air to be measured monthly,	86, 172
Case where fire used for,	86
Mechanical contrivance for ven- tilation, where to be placed,	87
Inspection before commencing work,	87
How to be made,	87
When locked safety lamps to be used,	87
Report as to,	87, 173
Inspection during shift,	88, 173
Ventilating Apparatus—	
Where to be placed, when in- troduced after commencement of Act,	87
May be inspected on behalf of workmen,	110
Ventilating District—	
When naked lights not to be used in,	91, 92
Meaning of,	96
Meaning, where mine not divided into,	97

	PAGE		PAGE
Ventilating District, continued—		Watering of Dry and Dusty Mines—	
Shot-firing in,	95, 96	See Dry and Dusty Mines.	
Ventilating Furnaces—		Ways into Steam Engine Room and Boiler Gallery,	102
Men attending to, during shot-firing in dry and dusty mine,	96	Weighter (Check) —	
Viewers, Coal—		See Check-weighter.	
May be chosen to Board for appointing examiners,	19	Weighter on behalf of Owner—	
Not to act as inspector,	71	Agreement between weighter and check-weighter as to determination of deductions,	24
W		May proceed with weighing and determination of deductions in absence of check-weighter,	26
Wages—		Weighing	
Where not to be paid,	22	What included in term,	30
Penal enactment,	22	Weighing Machine	
Provisions of Truck Amendment Act, 1887, as to deductions from,	22, 23	Application of Weights and Measures Act,	56
Where depending on amount of mineral gotten, how to be paid,	23	Fully Fairplay,	26, 37
Agreement as to deductions,	23, 25	Facilities to check-weighter for examining and testing,	27
Deductions what and how to be determined,	23, 24	Check-weighter may give workman information as to,	50
Penal enactment,	24	Offence for interfering with or altering,	31
Exemptions from provisions as to payment by weight,	24	Inspection of,	36
Remuneration of check-weighter,	24	Weights and Measures Act —	
When wages may be retained by owner or manager and paid to check-weighter,	34	Application of,	56
Application of Weights and Measures Act when wages paid by weight,	36	Powers of inspector under,	56
Payment of school fees out of,	21, 22	Six monthly inspection of weights, balances, scales, steelyards, and weighing machines,	57
Waggons—		Inspection of measures and gauges,	57
Who may not be employed in moving railway waggons,	18	Inspector under, not to impede or obstruct working of mine,	57
Width of manholes where waggons running on travelling roads,	102	Weight of Mineral —	
Water and Boreholes,	101	Payment of persons according to,	23
Water Gauge—		Ascertainment of actual weight gotten of mineral contracted for,	23
To be provided for each steam boiler,	107		
Wilful damage,	108		

Weight of Mineral, <i>continued</i>—	1 AGL	Women, <i>continued</i>	
Agreement as to deductions		Penal enactment,	20
from,	23, 24	Workings of Mine—	
Deductions what, and how to be		To be shown in plan of mine,	61
determined,	24	Ventilation of,	59
Appointment of check-weigher,	28	Inspection by half of,	71
Remuneration of check-weigher,	34	Who may not be employed at	
Wilful Damage,	108	coal or iron-ore,	
Windlass—		face of,	111
Persons conveyed through shaft,		Working Place	
&c., by means of,	104	Ventilation of,	85
Women—		Securing roof and sides of,	103
Interpretation of "woman,"	132	When timber to be provided at, . . .	103
Not to be employed below-		Workmen	
ground,	15	Not to pass beyond station	
Regulations as to employment		until mine examined and	
above ground,	17	found safe,	87
Hours and periods of employ-		Withdrawal of, in case of	
ment of,	18	danger,	90
What accommodation to be pro-		When to be withdrawn during	
vided,	130	shot firing in dry and dusty	
Register of, to be kept,	19	mine,	96
Not to be employed in moving		Who may be employed as coal	
railway waggons,	18	or iron-ore getter,	111
Exemption as to Saturday half-		Inspection of mine on 1/2 half of,	110
holiday in Ireland,	19		

